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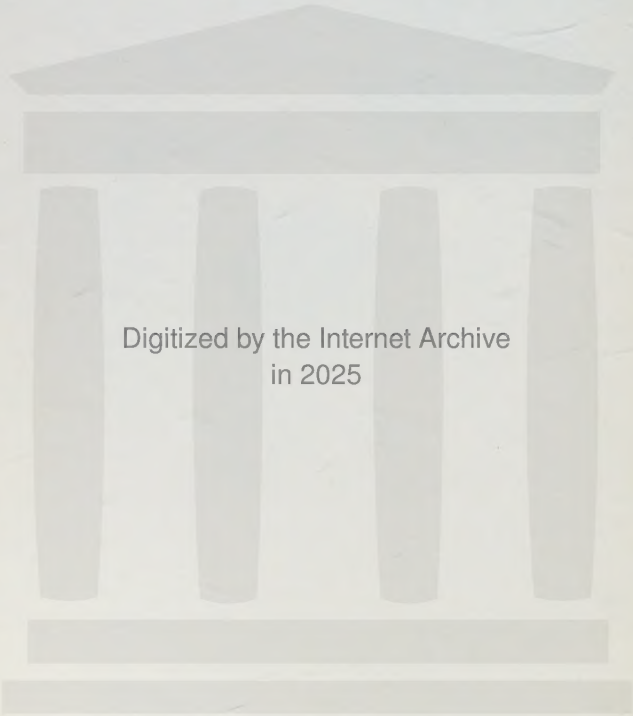

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THE

AMERICAN SECRETARIES OF STATE AND THEIR DIPLOMACY

VOLUME IX

VOLUME X

THE AMERICAN SECRETARIES OF STATE AND THEIR DIPLOMACY

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ADVISORY BOARD

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VOLUME IX

TABLE OF CONTENTS

EDITOR'S PREFACE vii

JOHN SHERMAN 3
BY LOUIS MARTIN SEARS

WILLIAM RUFUS DAY 27
BY LESTER B. SHIPPEE
AND
ROYAL B. WAY

JOHN HAY 115
BY A. L. P. DENNIS

ELIHU ROOT 193
BY JAMES BROWN SCOTT

ROBERT BACON 285
BY JAMES BROWN SCOTT

PHILANDER C. KNOX 303
BY HERBERT F. WRIGHT

APPENDICES 361

INDEX 411

EDITOR'S PREFACE

TO VOLUME IX

WITH the ninth volume this series reaches the age of the United States as a world power, the advent of which is generally conceded to have been announced by the Spanish-American War. Though John Sherman, during his brief tenure, may not have been primarily in charge of the diplomacy with Spain, his hand was nevertheless not negligible on the Department, as the other activities of his tenure show. Professor Sears in describing this short but puzzling secretaryship also enlightens the reader with an analysis of Sherman's reasons for accepting the office, and of McKinley's reason for the appointment.

To Sherman's subordinate and successor, William R. Day, fell the burdens brought by the Spanish-American War. The diplomatic relations with Spain, which Day handled as a subordinate in the Department, form necessarily a considerable part of the narrative by Professors Shippee and Way.

John Hay began the administration of the Department of State in an age of new power and new responsibilities. Secretary Hay has been almost universally ranked high in the list of our Secretaries. That Hay's achievements, with the possible exception of the "open door" policy in the Far East—itself formulated by other

men before Hay's incumbency of the Department— were Roosevelt's achievements, and that Roosevelt dominated American foreign relations, with Hay as an intelligent and polished subordinate, are becoming more and more apparent. Hay's career as a diplomat is in this volume depicted by Professor Dennis with the assistance of important material never before used by students of history.

The archives of the Department of State have been open to the authors of this series down to the unprecedentedly late date marked by the close of Hay's career. Obvious reasons of public interest would impel serious students to refrain from further encroaching upon the liberality of the Department by requesting to see documents still regarded as confidential; but in the case of the sketches of Secretaries Root and Bacon it is proper to remark that, even though reference cannot be made to still unprinted documents, the author, Dr. Scott, as solicitor of the Department of State, was thoroughly familiar with the details of official business. His relations with Secretaries Root and Bacon brought him into closest contact with both their official and their private lives. It is proper further to state that in the case of Secretaries now or very recently living, whose private papers are still unprepared for study, and whose careers await the maturer judgment of future generations and of different perspectives, the world cannot now hope for a definitive biography, particularly in this short compass. What we here present is the first beams of the historical search-light, as well as review of the essential facts.

The late Secretary Knox, a man about whom opinions

will ever differ, is here for the first time studied as a diplomatist by Professor Wright, whose access to new manuscript material reveals to us angles of Knox's diplomacy not heretofore widely discerned.

S.F.B.

JOHN SHERMAN

SECRETARY OF STATE

MARCH 5, 1897, TO APRIL 27, 1898

BY

LOUIS MARTIN SEARS, PH. D.

PROFESSOR OF HISTORY

PURDUE UNIVERSITY

JOHN SHERMAN

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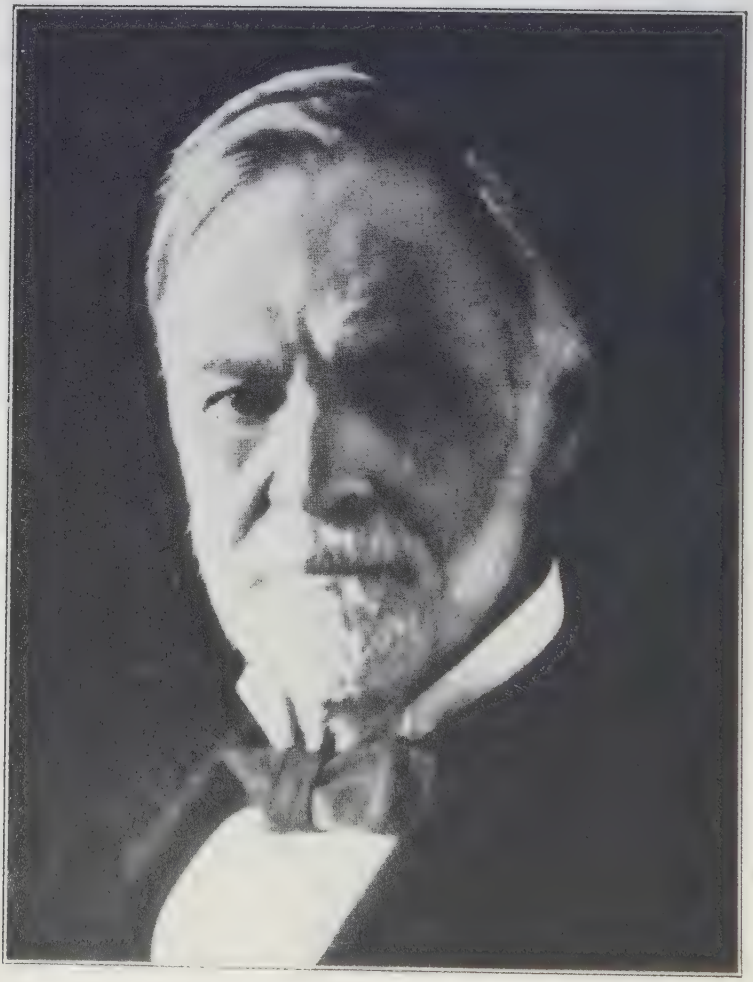

John Sherman

JOHN SHERMAN

VARIOUS explanations have been offered of why a man of seventy-four and certainly past the prime of his powers should lay aside a senatorial toga long worn with ease and grace to venture on what for him were the unfamiliar seas of foreign relations. One must look beyond ambition, for John Sherman's fame was long ago secure. Some regard the aged senator as a victim of Mark Hanna. That explanation does not wholly satisfy. It has been suggested, too, that Sherman welcomed office by appointment, as a release from the uncertainties of the 1898 election, the more so as his seat in 1892 had been won with some difficulty. No explanation, however, is complete that passes over Sherman's loyalty to party. The present day knows little of the almost religious fervour that characterized the party allegiance of the generation which followed the Civil War. Certainly Sherman, who in his youth was present at the birth throes of the Republican party and who so long enjoyed its favour, was not the man to oppose in his old age the mandates of his political idol. As he himself once put it, "he made it a rule always to act with his party; on great matters from principle, and on small matters from policy "[1] Three days after he resigned the secretaryship, at the very time when his feeling towards the party chieftains was most bitter, he could warn a friend in Ohio to avoid discussion of the matter lest divisions should arise. "This will not do for as you know I am

heart and soul devoted to that party and will not allow any act of the President to disturb or embarrass it."[2] From so loyal a partisan, sacrifice might be expected. An occasion for it arose out of the embarrassments of President McKinley in meeting obligations imposed on him by the campaign of 1896.

The statesman thus called upon for sacrifice was, in 1897, old and full of honours. He had behind him a remarkable record of service as politician and legislator. Entering Congress in 1855, he was continuously in the public arena as representative in Congress, senator, Secretary of the Treasury, and senator once more. He was born in 1823 of stock that for five of the six preceding generations had held some public office. His father's death, when young Sherman was but six years old, left the widow without support. She could not keep together her eleven children, two of whom were destined to win lasting fame in the annals of the Republic. John and his favourite brother, William Tecumseh, were separated. Thanks to the assistance of a kinsman, he received a good preparatory schooling, but he did not attend college.

In early youth he manifested great aptitude for civil engineering and surveying, but the advent in 1838 of a Democratic governor of Ohio led to his discharge from state employment and turned his thoughts to law and politics. On the day of his majority, May 10, 1844, he was admitted to the bar. His practice proved immediately lucrative. He was married in 1848 to Margaret Cecilia Stewart, the daughter of a judge in Mansfield, Ohio. In perfect happiness the couple lived to celebrate their golden anniversary, and more.

Sherman's nomination to Congress in 1854 followed immediately upon the Kansas-Nebraska Act. He entered public life at the full tide of the anti-slavery movement. Bleeding Kansas immediately offered him legislative opportunity. It was he who drew up the majority report of the House upon the constitutional entanglement in the territory. The prominence thus gained he kept in the succeeding Congress. In this he was a member of the committee on naval affairs which passed upon the Paulding incident in Nicaragua, and which ordered an investigation of the Brooklyn Navy Yard. In the Thirty-sixth Congress he was a candidate for speaker, but his anti-slavery record barred the way. Fiscal questions interested him early. He aided passage of the Morrill tariff bill in 1860. Friendly to protection, he avoided its extremes. In 1860 he stumped actively for Lincoln, and when Chase resigned his senatorial seat to enter Lincoln's Cabinet, Sherman was moved into the upper house.

In the Senate he upheld the war to save the Union, for which his famous brother was rendering such distinguished service in the field. Despite a brief service with the army, John Sherman's contribution was chiefly legislative. Financial questions called forth his highest talents. Space here precludes details of his war record as a legislator. In general it may be said that he participated actively in the legislation as to loans, taxes, and the establishment of a national banking system, the series of laws by which the Civil War was financed. In these war years, as also during his many subsequent years as a leader of the Republican party, Sherman was more distinguished for party loyalty than for consistent and outspoken personal policies.

During Reconstruction the Senator was originally friendly to President Johnson. Though later alienated by the latter's violence, he never went to the extreme of Sumner or Thaddeus Stevens. He was disturbed at the virtual disfranchisement of the Negroes, but did not actively oppose the party's policy of comparative indifference towards the freedmen's cause. Towards the greenback controversy Sherman assumed a median position, being more concerned with a refunding of the war bonds at lower rates of interest than with a revision of the currency. Prior to 1872, at any rate, he was friendly to reduction in the tariff, in the interest of both manufacturers and consumers, but he later became a high-tariff man when his party called for it. The income tax had his approval. Specie payment he distinctly sponsored, and he condemned delay in its enactment. He sustained the compromise that fixed the date for this as 1879.

He did not favour the candidacy of Grant in 1868, but supported him in 1872. He campaigned actively for Hayes in 1876, was one of a committee of ten to supervise the counting of Louisiana votes, but opposed as extra-constitutional the electoral commission created to decide between Hayes and Tilden. The electoral commission's decision being rendered, and accepted by Congress, he took the Treasury portfolio under President Hayes. Resumption was the great achievement of his secretaryship. A mammoth undertaking, it was handled with entire success. In 1877 he defended the use of silver as currency, to be maintained at par with gold, though not in the sense of "free silver." In his official capacity he caused the removal of Chester A. Arthur from the

collectorship of the port of New York. Yet so strong a party man was he that very shortly afterwards he aided the campaign for governor in New York of A. B. Cornell, one of Arthur's chief lieutenants, dismissed at the same time.

With the election of Garfield, Sherman returned to the Senate. He remained there for sixteen years. In 1880, 1884, and 1888 he seemed to many Republicans the logical candidate for President, but he never commanded a sufficient following to make him a formidable standard-bearer. On the death of Garfield he lent to Arthur his political allegiance, but not his friendship.

Originally opposed to the exclusion of Chinese, he later modified his views. Similarly he changed from advocacy of closer relations with Canada to recognition that Canada should follow its own path. On the Samoan question as it arose in 1889, he showed himself a friend to compromise. He was interested in the problem of railway rate control, though far from going to the socialist extreme. On the whole, he upheld the rights of corporations. He stoutly opposed, with good Republican protection doctrine, the anti-tariff message of Cleveland in 1887. He was responsible for completing the Washington Monument and for other memorials at the capital. He gave his name to the Sherman Anti-trust Act of 1890, though many of its details were not his.

The declining value of silver in the early nineties led to fresh currency problems, with whose solution Sherman was identified. He was a bimetallist so far as that position coincided with adherence to the gold standard. The McKinley tariff bill of 1890 in most respects he favoured. As chairman of the Committee on Foreign

Relations, he was concerned with the renewed interest in an Isthmian canal, manifested in 1891 and the following years. The death of General William Tecumseh Sherman in 1891 was a great blow to him. He supported Harrison in 1892, though confident he could not be elected.

President Cleveland had the support of Sherman in efforts to counteract the financial demoralization of 1893. The Wilson-Gorman Tariff Act he opposed. On Hawaiian annexation he was flatly opposed at every point to Cleveland. He wished incorporation of the islands as part of California. Towards Venezuela he was more conservative than the Administration; whereas his attitude towards a strong policy in Cuba was more advanced than Cleveland's. In the campaign of 1896 he spoke on behalf of McKinley, but at the age of seventy-three was not equal to the more vigorous efforts of his youth. His memory was proving unreliable and should have warned both party leaders and himself against placing him in unaccustomed situations.

Such in brief was the career of the devoted Republican who in 1897 was called upon to create a senatorial vacancy for Marcus Alonzo Hanna. The part played by Hanna in the election of his beloved friend McKinley pre-eminently entitled him to party favour. This the President gratefully acknowledged. He urged upon his Warwick a Cabinet position. First the Treasury, then the Postmaster-Generalship were held out. Hanna did not care for these. His heart for years had been set upon the Senate. To put him there one of the elected senators from Ohio must resign, so that Hanna might fill the vacancy by gubernatorial appointment.

Thus between Mark Hanna and his goal it is readily perceived that, even with the President committed in his interest, two serious obstacles intervened. First, no senatorial vacancy existed. Secondly, if one could be created, there was no certainty that the Governor of Ohio, Asa S. Bushnell, would select a political foeman for the honour. For Hanna had opposed the Governor's election and subsequently had displayed no signs of penitence. To overcome the first obstacle it was inconceivable that Joseph B. Foraker could be budged from his first term as senator. The only hope lay in the aged and loyal Sherman, who, though not amenable to coercion, might yield to moral suasion. There were secondary reasons that might help. If he did aspire to lengthened service, four years with the executive branch of the Government was more to be desired than two years with the legislative. The place of honour in McKinley's Cabinet unquestionably afforded the allurement of climax. It would crown a great career. But chiefly there was the disinterested motive of helping to solve a most embarrassing political entanglement. To relieve the President called into action both personal and party loyalty.

Assuming for Sherman the motive of self-sacrifice—though it could scarcely have been wholly that—one still must needs analyse the point of view of Hanna and McKinley. It is easy to believe that the former felt entitled to concessions. He had laboured mightily for Sherman in the campaign of 1892. For this he had been warmly thanked by letter, but he was mentioned never once in Sherman's *Recollections of Forty Years*, which was published in 1895. Some rift must have come between them. Its cause has not been definitely ascertained.

But assuredly Mark Hanna was not the man to be deterred by delicacy from accepting payment for an obligation—however high the price might seem to a disinterested observer. To have John Sherman step aside for him seemed only meet and right.

The motives of the President undoubtedly were more complicated. First and foremost, his friend must be appeased. The Cabinet positions were proffered urgently. Failing their acceptance by Hanna, a Senate seat must be obtained for him at any cost. Was that cost too high? Joseph B. Foraker, Shelby M. Cullom, Champ Clark, and others have dealt severely in their memoirs with McKinley for appointing Sherman as Secretary of State. Foraker, for example, relates the making of a special trip to Canton to warn the President-elect of Sherman's failing powers. It had been observed that the Senator's memory, which for names and faces never had been very good, now was growing very poor. The junior Senator foresaw awkward consequences from the numerous contacts and novel situations that his colleague would be called upon to face in the Cabinet position. In the Senate Sherman was still equal to requirements; headship of a great department would impose demands just where his powers were weakest.[3]

These fears and comments of the politicians have been echoed by historians. James Ford Rhodes reproaches McKinley for his choice of Secretary, and William Roscoe Thayer is sharply critical when he says: "To force the venerable Sherman, whose powers were already failing, into the most important office after that of the President himself, showed a disregard of common decency not less than the safety of the nation."[4]

The bogy of weak-mindedness had no terrors for McKinley. He knew that a poor memory for names is by no means inconsistent with great mental power—a quality which Sherman still could amply demonstrate, as, for that matter, he continued to do from time to time even after resigning his portfolio. In a letter to the editor of the Chicago *Tribune* the President-elect expressed his opinion that "the stories regarding Senator Sherman's mental decay are without foundation and the cheap inventions of sensational writers or other evil-disposed or mistaken people. When I saw him last, I was convinced both of his perfect health, physically and mentally, and that his prospects of life were remarkably good."[5]

Under the circumstances it was natural for McKinley both to discount the rumours of infirmities and to capitalize the assets that John Sherman would bring to his new office. Big business would appreciate a safe man at the helm. Tariff adjustments with neighbouring powers would be peculiarly well handled by so eminent an authority. The Administration would undoubtedly gain prestige from a great political personality in the State Department. Bothersome details of the office could be entrusted to a capable assistant. In the President's opinion the arguments of reason reinforced the dictates of necessity. That the choice soon proved unfortunate does not warrant Thayer or others in calling into question the essential patriotism of the President.

The President-elect in a brief note dated January 4, 1897 tendered Sherman the office of Secretary of State. Acceptance followed. A week later the future Secretary was very cordially invited to Canton for a conference.

Apparently the case was settled, but friends soon protested. A reply to one of these should be read into the record as indicating that as late as February 9 the retiring Senator wavered in his choice:

"U. S. Senate Chamber
"Washington, D. C.,
"Feb. 9, 1897

"Hon. Richard Smith,

"My dear sir:

"Your letter is just received. I have thought over the matters you refer to, and am inclined to believe you are right. But I have so committed myself that I could not withdraw from my acceptance of the office of Secretary of State without creating serious embarrassments to President McKinley. I think you had better write directly to him your views upon the subject as freely as you have written to me. I will not show him or anyone your letter, nor will I ask to be relieved from my engagement to him without his full consent. Personally I have but little choice in my position, whether in the Senate or the Cabinet, but will do whatever is best for the Republican party if it can be ascertained.

"Very truly yours,

"John Sherman."[6]

The concluding sentence is by far the most significant.

Removal of Sherman did not guarantee appointment of Hanna, who was kept as long as possible upon the anxious seat. The Bushnell-Foraker forces finally succumbed, however, and McKinley entered upon his Ad-

ministration with a temporary truce in Ohio's feuds and schisms.[7] The plans of Hanna had now been fulfilled. As his biographer observes, if Sherman was a victim of these plans he was, at any rate, a willing victim.[8] What Mr. Croly in his biography of Hanna fails to note in stressing this willingness of Sherman, is that it proceeded from loyalty to party and to President and not from personal ambition.

Having examined at some length the motives that impelled the aged Sherman to take so radical a step, we now face an equally perplexing problem—the degree of actual influence exerted by the Secretary upon the Department during his term as Secretary of State. The new incumbent was surrounded by able men. The First Assistant Secretary of State, confirmed by the Senate in May 1897, was Judge William Rufus Day, of Canton, Ohio, close friend of President McKinley, a man of high capacity, who succeeded his chief in office. In Mr. Alvey A. Adee, Second Assistant Secretary, the Department possessed a diplomatist of extraordinary experience, who had grown to fulfil the functions of a permanent under-secretary in all except in name. John Bassett Moore also served occasionally as Acting Secretary of State. For advice upon the later developments of the fur-seal question the Secretary might rely upon General John W. Foster, who succeeded James G. Blaine as Secretary of State in the Cabinet of Harrison and who accepted the position of American agent in the fur-seal arbitration. But it is only fair to Sherman to remember that these subordinates, however competent, were merely his lieutenants. Their acts became of necessity his own

and he was responsible for them. Anyone who finds difficulty in remembering names must protest against assuming that because this infirmity in Sherman had attracted notice, he was no longer capable of concentration upon policies and major issues. It is manifestly impossible to determine just where Sherman's contribution ended and other men's began. But it is fair to assume for Sherman, in addition to general responsibility for the administration of the Department, a personal interest at least in those diplomatic issues contingent on the tariff.

These issues grew in part out of the fear entertained chiefly in Latin-American countries that the tariff act of 1897 bore upon them with unequal incidence. It was necessary to remind them, with such tact as might be, that no unfairness was intended, but that if retaliation was attempted, the United States had as a counter weapon a genuinely preferential tariff schedule. The instructions of Sherman to United States ministers in Latin America covering these misunderstandings on the tariff and other more or less related matters are not of sufficient interest to be included here, except in the accompanying footnotes.[9] It should be observed, however, that the Secretary vigorously formulated and upheld the American interpretation of most-favoured-nation trading obligations: namely, that when one nation extends to another a particular trade concession in return for a privilege received, it does not *ipso facto* extend the same concession to nations enjoying most-favoured-nation treaty privileges, but not giving the same privilege in return for which the concession is granted. A contrary interpretation, said Sherman in a note to the Argentine Government, "instead of maintaining destroys that equality

of market privileges which the 'most favored nation clause' was intended to secure." In proof of this, numerous authorities were cited, and the conclusion was reached that the American interpretation of such clauses "may now be fairly considered as a part of international law."[10]

A study of American diplomacy reveals that the policy of the "open door" in China, popularly and justly associated with John Hay, had deep roots in the past. With its remoter origins the present chapter is not concerned, but in Sherman's term a marked development was evident. Already the pot was boiling that bubbled over in 1900. Much correspondence related to missionaries and their converts.[11] The claim of a Chinese to American citizenship based on naturalization in 1852, long prior to the exclusion acts, and fortified by frequent exercise of the right of suffrage, was denied in an instruction of great interest founded mainly on decisions of the Supreme Court of the United States.[12] More significant in the light of subsequent developments was Sherman's vigorous demand for punishment of the Governor of Shantung on account of his anti-foreign attitude. "The matter is an important one and one in which this Department is deeply interested. It is essential that the punishment of provincial authorities who endeavor to excite ill-will and feelings of animosity against foreigners should be vigorously insisted upon, and, if necessary, their dismissal from office demanded."[13] Unqualified approval was expressed for the vigorous action of Germany pursuant to the murder of her missionaries. "It is expected that good results will follow from this exemplary action."[14] The Boxer rising cast its shadows before.

In Korea the insubordination of our minister at Seoul monopolizes interest. American citizens, chiefly missionaries, having interfered in local politics, the State Department forwarded instructions covering their neutral obligations. These the minister ignored for a full year, until sharply brought to book. In diplomatic language he was told he had "adopted a course which the Department cannot commend."[15]

Curiously enough, missionary interests were as much involved in Denmark as in Korea. Here the Mormons were concerned. Their rights as citizens needed definition. The Department held that so long as they obeyed the law, the Mormons had all the rights of other sects, to cease, however, in the event of their propagating doctrines immoral or illegal.[16]

Of more far-reaching interest than the rights and wrongs of missionaries was the tension with Japan resultant on Hawaiian annexation. Japan professed anxiety lest annexation should extinguish previous treaty rights. Let her be reassured upon this point. As for the counter rumours of Japan's own designs upon Hawaii, the Department discredited them wholly.[17]

It is not likely that Sherman personally controlled the details of our Far Eastern policy, more than to sign the notes submitted to his judgment by capable subordinates. That the important Hawaiian treaty was not under his immediate direction is established by the statement of John W. Foster that Judge Day was actually in charge and that much awkwardness resulted from Sherman's unawareness of developments. On the eve of signing the annexation treaty, for example, Sherman assured the Japanese minister that no treaty was

in contemplation. He spoke the truth as he knew it. Japan soon thought it perfidy and emphatically protested.[18] Japan objected also to the tariff, but her favourable trade balance was regarded as hostage for fair play. Commercial relations were, however, especially commended to our minister's attention.[19]

The diplomacy of an industrial and commercial nation naturally centres on things mercantile. This was undoubtedly true in the McKinley Administration. The chief significance of American relations with Italy, Austria-Hungary, and the Netherlands was of this character. With the first named it was necessary to restate at length the American concept of the most-favoured-nation clause, a matter newly emphasized by the tariff act of 1897.[20] The attitude of Austria-Hungary raised the bogy of a general European "combination against American competition," a project upon which Germany in particular was believed to look with favour.[21] And a warning note of future oil-complications might be apprehended in the reluctance of the Dutch Government to admit Americans to ownership in a company then forming for exploitation of Sumatra oil.[22] The Standard Oil Company of New York was mainly instrumental in bringing the matter to the attention of the Department.[23]

Relations with France[24] and Germany were of necessity commercial. American pork was a perennial issue. More delicate negotiations with Germany concerned the laws of naturalization. The German claim to military service from resident Americans of German origin had given rise to many complications. Fresh developments in Sherman's term called forth instructions of unusual

interest, in which the skill of John Bassett Moore was doubtless manifest. Space unfortunately precludes detailed examination of so technical a subject.[25] German relations were complicated by the federal character of the Empire, whereby local opposition could nullify imperial commitments.[26] Relations with Germany were friendly at this time, and, as we have seen, no opposition was recorded to Germany's activities in China. The leasing of Kiaochow nevertheless aroused some faint misgivings, for inquiries were straightway instituted as to the prospective attitude of Germany towards foreign commerce at this port.[27]

Broadly speaking, Russo-American relations paralleled those with Germany. The rights of citizens were in dispute, the issue touching mainly the right of American Jews of Russian birth to travel in their former country.[28] Russia also, like Germany, was menacing the integrity of China. Her intentions at Port Arthur were fit subject for inquiry, and the President was declared to be "in sympathy with the policy which shall maintain open trade in China."[29] Opening of the Klondike forecast boundary troubles between Canada and Alaska. To be forearmed the Department sought copies of the Russo-British correspondence of 1823–1825, "of which the selections given in Volume IV of the Fur Seal Arbitration proceedings show the importance."[30] It is unlikely, however, that details of this sort required the personal intervention of the Secretary.

Other sketches in the present series have told the story of the "loot and ruin" of the fur-seal fisheries. When President McKinley took office, the resource had been woefully depleted. The questions of international

law involved were settled by the Paris Arbitration. But the seals themselves were increasingly exposed to the depredations of pelagic hunters, against whose operations the United States was rendered by international law powerless to protect them. Their existence as an economic resource was threatened with immediate extinction. The only hope of safeguarding the pitiful remnant of the herd lay in international co-operation. Joint action by the United States, Great Britain, Russia, and Japan could alone control the taking of seals in the open seas, the worst menace to their survival as a useful species. But on an issue in which Great Britain, with her monopoly of the dyeing of sealskins, had an interest only second to our own, British policy deferred to Canadian rather than to strictly island interests. Reports of British experts sent out to learn the facts were doctored to Canadian taste.[31] Even John Hay, who was nothing if not Anglophil, designated British policy as "tricky and tortuous."[32]

John W. Foster was named as special commissioner to deal with new developments in the seal controversy. We have his own word that he prepared one note of Secretary Sherman to the British chargé.[33] There were others too, no doubt; but the President felt keenly on this subject,[34] and it is unlikely that Sherman was indifferent. Irritability of temper grew upon him noticeably in this year at the Department. British temporizing did not tend to diminish it.

The slaughter of the seals continued throughout the season of 1897 despite our efforts to prevent it. The avarice of Canadian fur-hunters prevailed.[35] A conference called to meet at Washington in October[36] formulated,

it is true, the policy that eventually saved the herd,[37] but it had no immediate success. The fur-seal diplomacy carried on during Sherman's incumbency of the State Department marked an advance step, but did not close the issue.

No attempt can here be made to analyse in any detail the background of the war with Spain. Here the activity of the Department was a direct expression of the popular will, rather than the routine conduct of a chancellery. Moreover, for the fact that developments were leading inevitably towards war, Sherman was not in any sense responsible. During his last year in the Senate, it is true, Sherman had become somewhat of a jingo.[38] But as Secretary of State he carried out the promise of the closing sentence of his *Recollections*, wherein he said: "If my life is prolonged I will do all I can to add to the strength and prosperity of the United States, but nothing to extend its limits or to add new dangers by acquisition of foreign territory."[39] An enemy to the expansion of the United States overseas and an opponent of all unnecessary tutelage of Cuba, Sherman worked consistently for peace and to the last believed that had circumstances been more favourable, he could have had his wish.

The legacy of peace, from Cleveland; the rising indignation against Weyler and his concentration policy; the incident of Dupuy de Lôme's ill-fated letter; the destruction of the *Maine*, and the subsequent report concerning it; the efforts made by Spain to meet our wishes; the final urge to war—all these events are a part of the nation's history, but a part in which John Sherman's share was steadily diminishing. By all ac-

counts the burden of the case was Day's, though certain personal allusions in the grilling of Dupuy de Lôme bear internal evidence of Sherman's touch.[40] Major policies, certainly in the manner in which they culminated, were not his own.

Less well known than these vital issues, but indicative, one feels, of keen foresight, was an effort made in the summer of 1897 to ascertain the attitude of the principal European powers towards possible intervention of the United States in Cuba. When General Stewart L. Woodford set out for Spain as minister,[41] he was instructed to confer at London with John Hay,[42] at Paris with General Horace Porter,[43] and with Dr. Andrew D. White,[44] who was ordered from Berlin to meet him. Each of these acute observers was instructed to furnish an appraisal of opinion, diplomatic, political, and financial, in the country of his residence for the benefit of Woodford and the State Department both. The projected meeting of these ministers suggests an obvious parallel with that of Buchanan, Mason, and Soulé, preliminary to the Ostend Manifesto.

Whatever the outcome of the increasing difficulty with Spain, Sherman must have felt a satisfaction that the Joint Resolution of April 1898, passed just before his resignation from the Department of State and precipitating war, disclaimed for the United States all sovereignty in Cuba.[45] Republican of Republicans, Sherman was not an imperialist. In his retirement, now at hand, he was to exert what influence remained to him to divert his party and his country from the paths of empire.

Details of what led to Sherman's resignation on April 25, four days after the outbreak of the war, are

not precisely clear. It is certain that Judge Day had been attending meetings of the Cabinet, in itself a grave affront. A serious lapse of memory revealed in conversation with the Austrian minister is also given as the cause.[46] Some criticism had been roused by Sherman's over-frank communications to the press. Substantially, however, the explanation narrows to the unforeseen complexities that were rendering the secretaryship untenable. Dignity demanded that when the substance of his office passed to Day, the shadow follow too. It was all inevitable, but painful none the less. In finally severing their ties the Secretary gave the President a most uneasy hour.

In retirement Sherman never lost his rancour towards the President, for precipitating a situation that made his resignation necessary, nor towards Mark Hanna, whom he felt to be the source of all his woes. His final portion was a bitter one. Yet he should have known that posterity would judge him by the high achievements of his prime. Comfort, too, there should have been in knowing that even in the State Department his work was not ill done. It was a busy year, of large horizons. Foundations were being laid for the brilliant culmination under Hay. Justice should award to Sherman at least the credit for a steady policy and the absence of any serious mistakes. If the conduct of the State Department was largely matter of well-oiled routine, the Secretary ought not to be ignored. He was a very able man and he headed his Department.

In 1898 the span of Sherman's life was nearly run. He returned for a time to his home in Ohio, where his property demanded some attention. But Washington

remained the magnet. He liked particularly to visit the Senate when it was in session. Here he and Foraker became increasingly friends. Hanna he avoided. The McKinley Administration continued to find in him a critic. His last days were saddened by the death of his dearly beloved wife. He followed her on October 22, 1900, with burial from Old St. John's, in Washington, and interment at Mansfield, Ohio. Sherman and the era that he represented passed out together. The old nationalism was merging with the new imperialism. New times demanded other men.

WILLIAM RUFUS DAY

SECRETARY OF STATE

APRIL 28, 1898, TO SEPTEMBER 16, 1898

BY

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WILLIAM R. DAY

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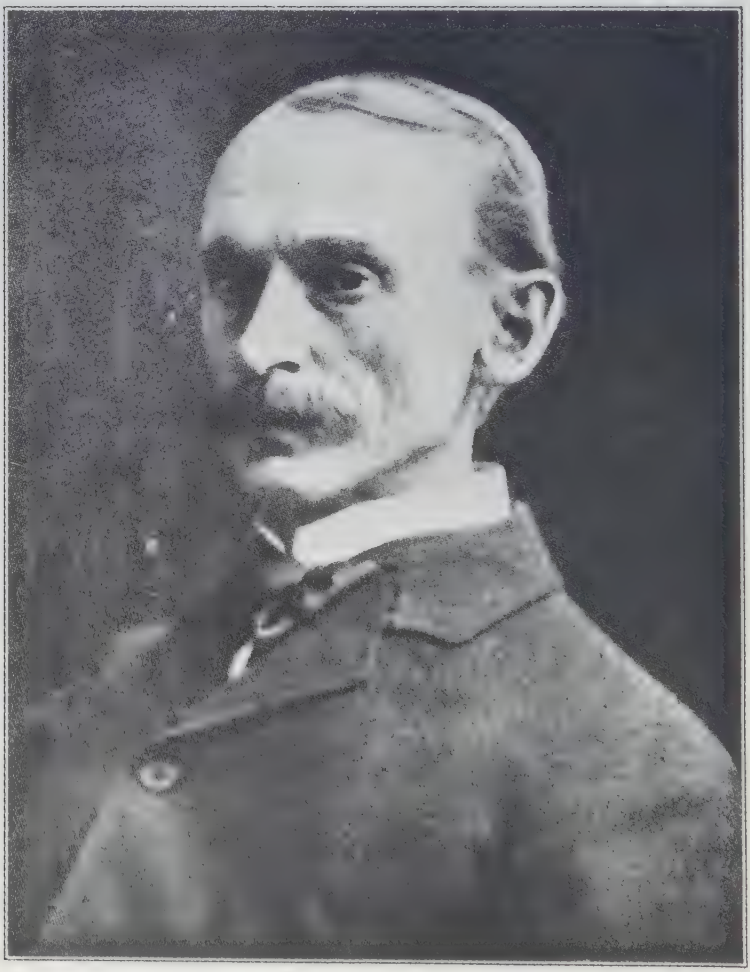

William R. Day.

WILLIAM RUFUS DAY

CHAPTER I

A DRAFTED SECRETARY

WHEN, four days after the Spanish-American War formally began, Secretary Sherman sent his resignation to President McKinley, it was the most natural thing for the latter to turn once more to his old friend from Canton, Ohio, and to ask him to assume the status along with the burdens of Secretary of State. Again Day responded to the call of friendship and of patriotism, putting aside financial caution and a natural reluctance to identify himself still more specifically with the tasks of a federal department, for the problems of which he had only the experience gained during the year he had been Assistant Secretary.

William Rufus Day, who was to head the Department of State through a scant five months—months packed with problems the decision of which would have momentous and determinative influence on the future of the United States—was born at Ravenna, Ohio, on April 17, 1849. His father, Luther Day, had been chief justice of the supreme court of Ohio, and the son followed the law in the footsteps of his sire. With his formal education begun in the local schools, he completed his preparation for college at an eastern institution and entered

the University of Michigan with the class of 1870. After his graduation Day returned to Ravenna for about a year to read law in the office of Judge G. F. Robinson, and then spent another year at Ann Arbor in the law school of the University. He was admitted to the bar of Ohio and in October 1872 entered upon the practice of his profession in Canton, in partnership with William A. Lynch.

It was in Canton that he became acquainted with Miss Mary E. Schaefer, whom he married in 1875, and it was there that his four sons, William, Luther, Rufus, and Stephen, were born. For fourteen years after his establishment in this little Ohio town his career was that of an attorney, busied especially with criminal and corporation cases. While politics did not attract him—Day left that activity to his partner—in 1886 he was elected to the bench of the common pleas court, after being nominated by both Republicans and Democrats. The inadequate salary of a judge drove him back into private practice until 1889, when President Harrison appointed him a judge of the United States district court for the northern district of Ohio. On grounds of health, Day resigned this position even before the time came to take up its duties. Practice of his profession continued to engage his attention until, in 1897, he was called to Washington by President McKinley.

Five years before Day settled at Canton, William McKinley had hung out his shingle and got into the political game in the same town. In 1869 he opposed and defeated Lynch, later Day's partner, in a race for the position of prosecuting attorney. Lawyers in a town of some five thousand, the young men were thrown

much together, and between Day and McKinley particularly there grew up a close friendship, which persisted until the latter's death in 1901. As McKinley devoted more and more of his time to politics, Day became not merely a confidential friend, but a legal and financial adviser. He was one of the group that, in 1893, extricated McKinley from the financial snarl into which he was brought by the bankruptcy of a friend whose paper he had endorsed.

When McKinley became President and after John Sherman had been persuaded to be Secretary of State, it was this close personal tie that led the former to ask his friend to be near him in Washington as Assistant Secretary of State. Affection and desire to be of service must have been the predominating motives that led Day to accept the appointment; he was not trained for the office, had no especial inclination for its peculiar problems, and could look for no material advancement from it. Indeed, he sacrificed a modestly lucrative practice, which had almost entirely to be relinquished, for the far more modest stipend of a subordinate official, whose position carried with it no social distinction, although this last meant little to a man so unassuming and retiring and so little inclined to seek diversions outside his family and his books.

Judge Day made no pretensions to being a diplomat. "I see," he said to a friend one day after he had been some little time in the Department of State, "I see that the newspapers talk about the diplomacy of this administration as 'amateurish,' and I must confess that it is."

Appointed in April and taking up his duties in May

1897, Day soon found that he would be obliged to assume more and more the burdens and, in everything except name, the responsibilities of Secretary of State. Just where the division of real work and real responsibility between Secretary Sherman and Judge Day lay, it is impossible to say.[1] Before long it became the custom of the President to invite the Assistant Secretary to attend meetings of the Cabinet, at least when there were under consideration questions upon which he had been working personally, and the evidence points to the conclusion that the President came to look upon his old friend as the person most fitted to consult on foreign issues. When, on April 25, 1898, John Sherman resigned his post, nothing was more logical than the appointment of Day to succeed him.[2]

News of Sherman's resignation reached the judge just as he was arriving with his son Luther for a brief visit in Canton. If acceptance of the subordinate position had meant financial sacrifice, to become Secretary of State would mean still greater sacrifice, without the compensation of feeling that a definite ambition was being gratified. However, there was scarcely any choice; his year in the Department had made him somewhat familiar with the routine, and he had been directly in charge of the Spanish negotiations and the questions most intimately connected with them. Even had there been no deep sense of loyalty to his chief, it is impossible to think that Day would have felt he could conscientiously deprive the Administration and the country of his knowledge and experience at a time when both were needed.[3]

In studying the conduct of foreign affairs and the

formulation of foreign policy in every administration there is always a question as to where the real initiative lay—with the President, with the Secretary of State, or elsewhere. The responsibility, of course, is the chief executive's, but it by no means follows that his was the mind in which a certain line of action was originally determined upon. As between President McKinley and Secretary Day the situation appears to have been something like this: in the first place, the crisis in the relations between the United States and Spain caused other issues to be subordinated to it; hence all major diplomatic questions for the time being grew out of or were involved in the Spanish-American issue. There is no surface indication that Judge Day was the author of any important policy, although he appears to have despaired sooner than the President of settling the Cuban question peacefully, and his views about the Philippines must have had weight. But the essential decisions were made in the White House. This by no means implies that Day was a mere rubber stamp; it means that the two men either thought alike on essentials, or that differences, if there were any, were ironed out between them in private and confidential interviews, although there appears to be no evidence to support a belief that there was any radical divergence in their views. A sketch, then, of Judge Day's administration of the Department of State involves considerable attention to the attitude and course of President McKinley.

Another difficulty which presents itself in an attempt to give an account of Day's activities lies in the fact that to all intents and purposes he had been entrusted with as much responsibility in many matters which

came up while he was Assistant Secretary as he had to assume when he was Secretary in name. There were, it is true, certain questions that logically may be identified with Sherman and they have been considered in the preceding sketch in this series; others, notably the Hawaiian annexation problem and the Cuban difficulties culminating in the Spanish War, were peculiarly Day's province; consequently in tracing their main phases the metamorphosis of the Assistant Secretary into the Secretary will be treated as a mere incident.

Secretary Sherman had the assistance of an able corps of subordinates. Secretary Day was no less fortunate. After Sherman's resignation Alvey A. Adee continued to fill the position of Second Assistant Secretary, while John Bassett Moore was persuaded to obtain leave of absence from Columbia University, where he was professor of international law, to begin a notable career as First Assistant Secretary in the Department.

CHAPTER II

THE HAWAIIAN TREATY

IN his *Diplomatic Memoirs* John W. Foster relates that after he had been delegated by President McKinley to go to London and to St. Petersburg on the mission relative to the protection of the fur seals, he was requested by Judge Day "to draft a form of treaty of annexation of Hawaii, as, he said, it was the intention of President McKinley to make such a treaty and send it to the Senate as soon as the pressure of business would allow." "Judge Day," continues Foster, "at the time had had little experience in diplomatic matters, and in handing to him the draft of the treaty rolled in a small compass with a rubber band, he held it up and said to me: 'And that little roll can change the destiny of a nation.'"

The project of Hawaiian annexation was no new thing, as the preceding sketches in this series have shown. It had been Foster's treaty that President Cleveland had withdrawn from the Senate in 1893, and it had been a project to which the Republican party was officially committed that a Democratic President had interfered with. In 1896 the Republican National Convention had gone on record in favour of annexation. In the islands themselves the provisional Government established in 1893 had given place to a permanent one, and the Republic of Hawaii had been recognized as one of the family of nations. Those who were behind

the new Government, however, did not contemplate at any time the long continuance of this independent status; they were merely biding their time until a moment favourable to annexation should come—when there should no longer be in the White House the man who had put a stop to their plans in 1893.

Under the circumstances, then, the framing of a treaty by Foster and the Hawaiian commissioners, Francis M. Hatch, William A. Kinney, and Lorrin A. Thurston, was a business which consumed very little time and which was accompanied by a minimum of haggling. On the sixteenth of June 1897 the convention was signed and transmitted by the President to the Senate. While the name of Secretary Sherman was attached to the treaty, not only did he have no direct connexion with its negotiation, but he was without knowledge that any such treaty was being drawn. Judge Day was directly responsible for its negotiation. General Foster did the work. The ultimate responsibility and immediate initiative may be accredited to President McKinley.[4]

The report accompanying the treaty and reviewing the negotiation was also signed by Secretary Sherman, but here, too, the work bears all evidence of having come from the hand of Foster. In this document occasion was taken to call attention to the circumstances attending the formation of the provisional Government in Hawaii; the transition to a republic recognized by the nations of the world was cited; and particular notice was taken of the article in the constitution of the Republic of Hawaii authorizing its President, with the approval of his Cabinet, to make a "treaty of political

or commercial union between the Republic of Hawaii and the United States of America."

> "The present negotiation is, therefore, . . . not a mere renewal of the tender of Hawaiian territory made in 1893, but has responded to the purpose declared in the Hawaiian constitution. [A simple commercial union was impracticable.] Turning then to the various practical forms of the political union, the several phases of a protectorate, an offensive and defensive alliance, and a national guaranty were passed in view. In all of these the independence of the subordinated state is the distinguishing feature, and with it the assumption of the paramount state of responsibility without domain. This disparity of the relative interests and the distance separating the two countries could not fail to render any form of protective association either unduly burdensome or illusory in its benefits, so far as the protecting state is concerned, while any attempt to counteract this by tributary dependence or a measure of suzerain control would be a retrograde movement toward a feudal or colonial establishment alike inexpedient and incompatible with our national policy. [Annexation, then, alone remained the solution] satisfying all the given conditions and promising permanency and mutual benefit."

President McKinley, in his letter of transmittal, pointed out that annexation was the necessary and fitting sequel to a chain of events which, from a very early period in our history, has controlled the

intercourse and prescribed the association of the United States and the Hawaiian Islands. The idea of union was not a new idea. It was "the inevitable consequence of the relation steadfastly maintained with that mid-Pacific domain for three-quarters of a century. Its accomplishment, despite successive denials and postponements, has been merely a question of time." The failure of the treaty of 1893 and the four-year delay gave the Hawaiian people an opportunity to establish a government, to secure recognition, and to demonstrate their ability "to enter, as a sovereign contractant, upon a conventional union with the United States, thus realizing a purpose held by the Hawaiian people and proclaimed by successive Hawaiian governments through twenty years of their virtual dependence upon the benevolent protection of the United States. *Under such circumstances annexation is not a change. It is a consummation.*"

Such mellifluous words ought to have softened the heart of the most stubborn senator!

By the treaty Hawaii ceded all rights of sovereignty, and the islands were to be annexed to the United States under the name of the Territory of Hawaii; public property was to be transferred to the United States, which assumed Hawaii's public debt in a sum not exceeding four million dollars. Existing treaties must be replaced by those made or to be made by the United States. Further immigration of Chinese to the islands, "except upon such conditions as are now or may hereafter be allowed by the laws of the United States," was prohibited, and no Chinese were, by reason of anything in the treaty, to be allowed to enter the United

States from the Hawaiian Islands.[5] Japanese were not mentioned.

Soon after transmittal to the Senate the contents of the treaty and the accompanying documents were made public, and again there was considerable public and newspaper discussion, with opinion almost as varied as it had been when the treaty of 1893 was under consideration. There was not a little effort on the part of those interested in carrying through annexation to stir up public opinion and bring pressure to bear upon the Senate. On the other hand, opponents, and they were many and of many motives, rallied their forces to counteract the annexationists. One of the latter, and a most decidedly interested party, was the deposed Queen of Hawaii, Liliuokalani, who, after having been released by the Hawaiian Government, had come to the United States and was staying in Washington to watch over her island kingdom's fate. When the treaty was made public, she discovered that while the treaty of 1893 had made provision to pay annuities to her and to some others of the royal family, this new one omitted any such stipulation, at the same time providing for taking over what was designated the crown lands under the old regime. Queen Liliuokalani sent to the Department of State an "official protest" declaring the treaty "an act of wrong toward the native and part-native people of Hawaii, an invasion of the rights of the ruling chiefs, in violation of international rights both toward my people and toward friendly nations with whom they have made treaties, the perpetuation of the fraud whereby the constitutional government was overthrown, and, finally, an act of gross injustice to

me."[6] Needless to say, while the ex-Queen was courteously received by both the President and Secretary Sherman, her "official protest" fell upon deaf ears.

A more significant protest, potentially, was one from the Japanese Government when the news came out that the treaty had been signed. For many years there had been steady immigration of Japanese into Hawaii to supply the demand for labour on sugar and other plantations, owned for the most part by Americans or Hawaiian-Americans. Indeed, the total American and European population of the islands amounted to only about one-sixth of the Japanese, who were twice as numerous as the native Hawaiians. Consequently "Japan made a protest to America on the ground that her interests were vitally involved, because of her close relations with the Islands, not only on account of the great number of emigrants of her nationals there, but also on account of the Pacific itself and of the geographical propinquity of Hawaii. Furthermore Japan was apprehensive that, should America once annex Hawaii, the other Powers, following America's example, would also begin to grab the archipelagoes of the Pacific."[7] How few there were left to grab!

Secretary Sherman, in ignorance of what was going on, had assured the Japanese minister, in response to an inquiry whether there was anything in the rumour that a treaty of annexation was under consideration, that there was no such negotiation. Whatever his suspicions might have been, the minister could hardly do otherwise than take the word of the Secretary of State at its face value and so inform his Government. Hence, when the news came out that not only had there

been negotiations, but that a treaty of annexation had been sent to the Senate for ratification, both the minister and his Government could feel that Japan had been intentionally deceived or had been trifled with. The Japanese Government, moreover, was at the time in a controversy with Hawaii about the exclusion of certain immigrants, and if sovereignty should pass to the United States, there might be difficulty in getting the matter adjusted.

There was some feeling in Washington that the Japanese protest might be followed by a determined stand against American annexation, and while the Japanese minister was home during the summer, newspaper comment from time to time kept the affair alive. Theodore Roosevelt, then Assistant Secretary of the Navy, was one of those who thought Japan's attitude might be menacing; on September 15, 1897 he wrote to Henry Cabot Lodge: "He [the President] is evidently by no means sure that we shall not have trouble with either Spain or Japan; and, though he wants to avoid both, yet I think he could be depended upon to deal thoroughly and well with any difficulty that arises."[8]

In the early part of December the Japanese minister, Toru Hoshi, returned to Washington and in an interview with some newspaper men talked rather freely about the question. "Mr. Hoshi said today that while he had no intention of discussing in the newspapers the official relations of his country with the United States, he thought it was due to both Governments to disavow in the most public manner the sentiments and designs regarding Hawaii's annexation, frequently attributed to Japan in the press of the country." He went on to

say that while at one time there was a protest, that protest referred to certain rights pertaining to Japan and her people which momentarily appeared to be threatened.[9] The formal withdrawal of the protest, indeed, came the next week. Nevertheless, it seems rather certain that, had it not been for internal difficulties faced by its Government, Japan would have assumed a less yielding attitude.

The special session of Congress came to an end in the summer of 1897 with the annexation treaty still unratified. In his first annual message, in the following December, President McKinley reverted to the topic. After stating that the President and Senate of the Hawaiian Republic had unanimously ratified the treaty, he urged, as he had in June, like action by the United States Senate. The opposition of the Democrats together with that of some Republicans who represented certain economic interests which appeared to be threatened by annexation made it appear that the two-thirds necessary for ratification would be difficult, if not impossible, to obtain. Thereupon recourse was had to the Texas device of 1845, and a joint resolution, which required only a majority in each house, was passed and signed by the President. By this time new factors had appeared. The Cuban difficulty had ripened into the Spanish-American War, Commodore Dewey had destroyed the Spanish squadron in Manila Bay, and the need of some base between San Francisco and the Philippines seemed to the Administration to make the annexation of the Hawaiian Islands absolutely imperative.

CHAPTER III

THE CUBAN SITUATION

PRESIDENT CLEVELAND'S warning in his last annual message, in December 1896, that the time might come when the United States would be forced to take a hand if Spain did not soon come to some arrangement whereby the unhappy island of Cuba might be set on the road to peace and prosperity, the continuous newspaper activity which did not allow the American people to forget Cuba's ills, the ceaseless output of propaganda by the Cuban Junta in New York, the insistence with which the issue forced itself into Congress, all presaged a delicate situation for the McKinley Administration to handle. Nevertheless, at the moment when administrations changed, the atmosphere appeared to be clearing. Early in February 1897 Señor Dupuy de Lôme, the Spanish minister in Washington, had received from his Government a telegram outlining the reforms that it proposed to introduce in Cuba. A few days later he sent home word that Secretary Olney had told him the reforms were as extensive as could be asked and more than they expected. "This," he continued, "is also the opinion of most of the principal politicians who have not been openly unfriendly to us —including many of those who have great influence in the new Administration, and Mr. McKinley himself. . . . The Cuban question is to-day dead in Congress and before the public. . . . My opinion is that in measure, as the reforms become better known and understood,

their effect will be increasingly appreciated, thus settling the matter definitely and preventing any fear of interference on the part of the new Administration, at least for some time."[10]

That the new Administration had no desire to interfere was patent. Intervention in Cuba could not fail to produce a war with Spain, and war was the last thing President McKinley wanted; his whole program was a peace program, and proper handling of those pressing economic questions that had been debated in the campaign so earnestly and even acrimoniously stood a strong chance of being pushed aside if international issues produced a war. Furthermore, he could and did question whether the United States was prepared to embark on any war. Nothing at that moment could have been more grateful than the thought that at last Spain was actually taking steps to clean up its colonial system.

There were other encouraging signs. In the earlier stages of the Cuban insurrection there had been little effective interference with filibustering expeditions financed and sent out by the Cuban Junta.[11] After the decision of the Supreme Court in the *Horsa* case, and following President Cleveland's proclamation of July 1896, embodying this decision, greater risk was run in attempts to smuggle into Cuba men and munitions to fight the Spanish authorities, and, while filibustering did not stop entirely, the Spanish Government no longer could complain with such substantial basis as before that American laws applicable to the situation were not being enforced.[12] All filibustering did not stop, nor was there complete cessation of complaint about the Junta;

nevertheless, the situation was, on this score, less tense than it had been a few months before.

Another cause of friction was disappearing. Considerable numbers of citizens of the United States, mostly naturalized Cubans, had been apprehended for alleged complicity in the insurrection, but one after another was released, and usually expelled from the island, until, on December 4, 1897, Woodford could write from Madrid that the Spanish Minister of State informed him that "no citizen of the United States now remained imprisoned in the Island of Cuba."[13] Another irritating factor was being removed. A decree issued by Captain-General Weyler in May 1896 had put an embargo on the exportation of tobacco from the island, and this had given rise to a number of complaints filed with the Department of State, the greater part of which dealt with alleged contracts made before the decree was promulgated. By the summer of 1897 these claims were well on their way toward settlement, most of the shipments having been released, although Woodford still had some trouble with them till toward the end of the year.

Definite and specific grievances arising out of the infringement of rights of American citizens were not the basic causes of the Cuban difficulty. Until Spain actually put into effect governmental and economic reforms that would satisfy the Cuban people; until the destruction of property incident to the insurrection, and the more significant destruction of life ceased; until such order was restored that Americans could no longer complain that their interests and well-being were jeopardized by the eternal ferment—until these things took place the "Cuban question" would be a cause of friction between

the United States and Spain. If, then, the Spanish reforms promised in February could be and would be carried into effect, and the devastating war, in which one side appeared to vie with the other in ruthlessness, should be brought to an end, then the Cuban Junta would be obliged to disband and newspaper agitation would cease from sheer malnutrition. Even though the situation looked more promising than a few months earlier, there was still that sense of irritation so long and so deeply felt by the American people—that dismaying truculence which had manifested itself in so many ways during the preceding years—to be reckoned with.

Under the circumstances it seemed to the President that if Spain would part with Cuba, the easiest solution of a perplexing problem might be found. Accordingly, when Whitelaw Reid was appointed special envoy to represent the United States on the occasion of Queen Victoria's Jubilee, he was instructed to find out whether the Spanish Government would consider a sale. Mr. Reid brought the matter up in an incidental way with members of the Spanish mission in London. But "Spain would never sell the brightest jewel in her crown—that was the substance of what the Spaniards had to say."[14]

The possibility of purchase, however, seems to have been entertained for some time. It seems not improbable that General Woodford, before he started for Madrid, talked over the subject with either the President or Day or with both, for in his personal correspondence with the former during the fall of 1897 and the winter of 1897–1898 there is frequent reference to the matter. Woodford not only apparently came to believe that the purchase of the island was the only solution, but had

begun to think that Spain would sell. For some reason a change took place in Washington on this point. Woodford received no answers to his requests for instructions about purchase, but, not informed of any change of policy, he continued to agitate the matter at Madrid. He wrote McKinley that he knew the Queen was advised to consent to a sale and also that he had direct word from her which led him to believe eventual purchase would be possible. Then at the critical moment came from Day an instruction stating that the United States did not want Cuba. The question at once arises: why and when was the notion of purchase abandoned, and who was responsible for the change—Day or McKinley? And what were the forces which brought about the change? The available evidence does not yield a satisfactory answer to either question.[15]

In Washington nothing of a formal nature was done until early summer, although there had been interviews between de Lôme and Day. On June 26, 1897 a note, signed with Sherman's name, was addressed to the Spanish minister on the subject of Cuba: it pointed out the apparent failure of General Weyler's measures to put an end to the insurrection and to bring peace to the island. The devastation, individual suffering from privation and disease attendant upon the *reconcentrado* system, injury to American trade, and loss to Americans who had capital invested in sugar plantations and other Cuban enterprises were all emphasized. The note went on to say:

> "Against these phases of the conflict, against this deliberate infliction of suffering upon innocent

non-combatants, against such resort to instrumentalities condemned by the voice of humane civilization, against the cruel employment of fire and famine to accomplish by uncertain indirection what the military arm seems powerless to directly accomplish, the President is constrained to protest, in the name of the American people and in the name of common humanity. The inclusion of a thousand or more of our own citizens among the victims of this policy, the wanton destruction of the legitimate investments of Americans to the amount of millions of dollars, and the stoppage of avenues of normal trade — all these give the President the right of specific remonstrance; but in the just fulfilment of his duty he can not limit himself to these formal grounds of complaint. He is bound by the higher obligations of his representative office to protest against the uncivilized and inhumane conduct of the campaign in the island of Cuba. He conceives that he has a right to demand that a war, conducted almost within sight of our shores and grievously affecting American citizens and their interests throughout the length and breadth of the land, shall at least be conducted according to the military codes of civilization."[16]

Four days later the Spanish minister replied in a long communication wherein he maintained that devastation and hardship in the island were grossly exaggerated in American newspapers, that the conduct of Union forces in the American Civil War was a precedent for the apparent ruthlessness with which the attempted suppression of the Cuban revolution was being carried on,

and that atrocities committed by the *insurrectos* were overlooked and that the Spanish Government was taking steps to alleviate suffering as much as possible.

> "If the American people, to whose philanthropic sentiments reference is made in your excellency's note of June 26, understood, from a dispassionate examination of this question, that the insurrection lives for evil only, and, instead of encouraging it by holding out the fallacious hope of assistance, which is the basis of all its trust, would counsel peace; if, instead of aiding and abetting the violations of law which are constantly committed by Cuban emigrants organized here for the purpose of making war upon a nation friendly to the United States, they would aid the Federal Government in its efforts to prevent the departure of filibustering expeditions, which render this long and desolating war possible, all the evils would very soon cease which are deplored by His Majesty's Government and by all Spaniards, as well as by the President and people of the United States."[17]

A little over a month later de Lôme received from the Duke of Tetuán, the Spanish Minister of State, a communication instructing him to present to the American Secretary of State the Spanish Government's view of the situation, which was essentially that which de Lôme had already presented in his reply to Sherman. In spite of all, said the Duke, in the midst of the fratricidal struggle His Majesty's Government had amended the legislation relating to the island "in the most decentralizing and expansive sense to the end that it may

enjoy such an organization as will enable it to govern itself in the administrative department, subject to the immutable sovereignty of Spain."

One Spanish grievance, not touched upon directly in these communications, should not be overlooked. From time to time hints were dropped that one irritating factor was the presence of General Fitzhugh Lee as consul-general at Havana. While Lee evidently tried to be impartial, it was impossible for him to keep out of his reports his horror of the Cuban situation and his belief that Spain alone never would be able to extricate itself from this. The Spanish officials complained that while he painted the actions of the Government in the darkest colours, he was apparently oblivious to any misconduct of the insurgents; in short, they believed him unfair and prejudiced. The possibility of having him replaced by another was discussed, and in February 1898, at the time of the tense situation over the de Lôme letter and the destruction of the *Maine*, Gullón seriously considered asking that he be recalled. No formal request was made, however, for Woodford, to whom an intimation of the Spanish wishes was conveyed, was decisively informed from Washington that the President had no intention of removing or replacing Lee.

CHAPTER IV

WOODFORD IN SPAIN

WHILE the more or less formal interchanges were taking place in Washington, real hope of securing adequate Spanish action was pinned on the efforts of the American minister at Madrid. General Stewart L. Woodford, chosen to replace Hannis Taylor, received on July 16, 1897 his written instructions, formally signed by Sherman. These briefly reviewed the course of events in and with respect to Cuba during the previous years and went on to state: "In the judgment of the President the time has come for this Government to soberly consider and clearly decide the nature and methods of its duty both to its neighbors and itself." The Government was faced with difficulties in trying to administer its neutrality laws, questions were constantly arising affecting treaty rights of American citizens, the island was suffering from an almost complete paralysis of its economic life, and, finally, the United States Government was "rightfully and naturally apprehensive lest some untoward incident may abruptly supervene to inflame mutual passions and thus raise issues which, however deplorable, can not be avoided." (One might almost say that Day had a vision of the *Maine* disaster.) It could not "be reasonably asked or expected that a policy of mere inaction [could] can be safely prolonged." Attention was called to the resolution of the Senate recommending recognition of belligerency then under consideration in

the House of Representatives. In face of all these circumstances the Government of the United States must seriously inquire "whether the time has not arrived when Spain, of her own volition . . . will put a stop to this destructive war and make proposals of settlement honorable to herself and just to her Cuban colony and to mankind." The United States ever stood ready to tender its good offices to this end. The instruction closed with an intimation that beyond recognition of belligerency was "the larger ulterior problem of intervention," which the President would not at the moment discuss.

All these considerations General Woodford was to bring to the attention of the Government of Her Majesty the Queen Regent at the proper time "with all the impressiveness which their importance" demanded. He was to emphasize the disinterestedness of his Government and place "especial stress upon the unselfish friendliness" of its desires, but in so doing he was not to disguise the gravity of the situation, "nor conceal the President's conviction that, should his present efforts be fruitless, his duty to his countrymen will necessitate an early decision as to the course of action which the time and the transcendant emergency may demand."[18]

Woodford presented his credentials to the Queen Regent at the summer palace of Miramar, on September 13, 1898, just after his predecessor, Taylor, had taken his formal leave. The next day he telegraphed to Washington that the Spanish Minister of State had himself suggested a conference for the following Saturday, the eighteenth. Before his official reception Woodford had a long conversation with Sir Henry Drummond Wolff, the British ambassador, and explained in

detail to him what the Cuban situation meant to the United States. In reply to a question from the Englishman as to what his Government proposed to do, Woodford said that, while he was not then prepared to suggest a definite remedy, some means to end the struggle must be found before Congress assembled in December. He closed the conversation by saying that if "Cuba could at once and without any evasion or reservation have such autonomy under Spanish titular authority as Canada now enjoys under British rule," he believed that the American Government and people would be content. In the course of the next month he had similar conversations with the representatives of all the major European powers.[19]

On the appointed Saturday Woodford, having received from the Department of State a telegram instructing him to act at discretion in the interview, had his first official meeting with the Duke of Tetuán, who, two days before, had received from de Lôme a telegram which probably made him feel that the need for immediate and decisive action was not quite so great as the American minister said. De Lôme had cabled that there existed a period of great calm:

> "Neither the arrival of Lee in the United States, nor the arrival of the new minister from the States there [in Spain], nor the return of the President of the Republic to Washington for some days has agitated public opinion, notwithstanding the efforts of the "Herald" and other newspapers, on account of the silence of the prudent and influential. The recommencement of negotiations is a sure warrant that all

kinds of questions will be avoided, great pressure being brought upon McKinley in order that he may not permit the agitation."

De Lôme also quoted Day's statement to the press: "There is no occasion for any sensational reports regarding the new representative from the United States to Spain. His mission is highly pacific."[20]

At the interview with the Duke, Woodford read parts of his instructions and agreed to furnish a written statement of the substance of them. Tetuán was not expansive, although he insisted "courteously but very firmly" that there were expectations of success in putting down the insurrection, and "intimated, although in very guarded terms," that he feared that the American Government was not doing all that it could to prevent assistance being given to the rebellion from the United States. Woodford told him at the end of the conversation, as he had at its outset, that peace in Cuba was an absolute necessity for his country and suggested that the Spanish Government should give the United States before the first of November "such assurance as would satisfy the United States that early and certain peace [could] can be promptly secured, and that otherwise the United States must consider itself free to take such steps as its Government should deem necessary to produce this result, with due regard to our own interests and the general tranquility."

Before the Duke made answer to this formal presentation, his Government resigned, on the evening of September 29, partly in consequence of the assassination of Cánovas, the Premier. A liberal Ministry, headed

by Práxedes M. Sagasta, took office, and on October 5 Woodford had a short interview with him; nothing definite was mentioned about the Cuban situation, although on both sides there were expressions of a desire for continued and increased friendliness between the United States and Spain. More than two weeks passed, and the Department of State then made inquiry as to when a reply to its representations and to its tender of good offices would be made. Woodford answered that he believed an answer would be made before the appointed day—that is, November 1, 1897. On October 26 he was able to send to Washington a reply framed by Señor Pío Gullón, the Minister of State, and dated October 23.

Gullón, after acknowledging the expressions of good will contained in Woodford's communication, said that they removed from the words in which the laudable wish for a termination of the Cuban war was couched "whatever minatory character might be attached to them upon the first impression of anyone who did not dwell upon and attach due weight to those words, in view of the cordial and eloquent declaration with which the note begins and ends." Consequently the Spanish Government saw no obstacle in the way of examining the measures most conducive to bringing about the termination of the struggle. While Spain intended to pursue its military program, which, Gullón stated, was bringing a considerable portion of the island back under its authority, and which had deprived the insurgents of most of their prominent leaders, the new Government's plan included the leaving to Cuba control of its internal affairs. Foreign affairs, defence, and the administration

of justice were to remain with the home country. At the same time it was suggested that, as the President of the United States felt "it his duty to make the strongest possible effort to contribute effectively toward peace," this could be done best by a stricter enforcement of American neutrality laws, for, "despite the express provisions of those laws and doctrines maintained by the American Government in the famous Alabama arbitration . . . it is certain that filibustering expeditions have set forth and unfortunately continue to set forth from the United States." It was this moral and material support, asserted the Minister, that kept the rebellion alive. Her Majesty's Government, therefore, suggested that either by a stronger proclamation than Mr. Cleveland's, or by a more energetic application of the laws in existence, the American Government should "completely cut off the support which the Cuban insurrection is receiving from the United States." As to Congress's discussion of recognition of belligerency, Gullón not only said that the insurrection was far less likely to succeed than it promised in 1896, when Cleveland refused such recognition, but he trusted that the executive would not fail to "act as a secure safeguard" against "whatever passions may . . . blind the judgment of a deliberative chamber in countries like the United States, where right and justice always triumph." While appreciating the tender of good offices, Gullón said that his Government did not feel that they were needed at the time.[21]

This formal response to Woodford's representations was about what he had expected. A week before, he had written to Washington:

". . . I do not expect that Spain will accept our tender of good offices. My best judgment is that the note when received, will prove to be a general offer of a somewhat indefinite autonomy, with a general expression of hope on the part of Spain that the rebellion in Cuba will be practically ended at an early date. I do not think any date will be fixed. I doubt whether the Spanish official mind comprehends real autonomy as Englishmen and Americans would understand autonomy. I doubt whether Spain would give in theory or enforce in fact such autonomy as Canada has."[22]

One indication of the change of policy which Gullón's note mentioned had already taken place. Weyler was replaced by General Ramón Blanco. This move had been forced by Woodford's earnestness; if not a distinct breaking of an understanding with Weyler, it must have been galling to Spanish pride. But the Liberal party—Sagasta's party—had been committed to such a step as well as to Cuban autonomy and social and economic reforms, in a manifesto of June 24, and Woodford was skilful enough to secure what amounted to an agreement that the manifesto bound the party when in power as much as when it was in opposition.

Meantime de Lôme was keeping the new Spanish Ministry in touch with the trend of opinion, official and popular, in the United States. On October 19 and 20 he telegraphed that no positive step would be taken until after the November elections, for the President, he said, would do nothing to injure his party before the masses. "It is indubitable that to-day he is trying to have the solution of the Cuban question effected in

a way that will result in a triumph for his personal politics. I spoke at length with Assistant Secretary of State Day, and although he bears himself in absolute reserve, for fear of being compromised, he told me enough for me to understand that the attitude of the Department has changed from aggression to expectancy."

However much the pending elections had to do with the matter, the fact remains that the Administration made no positive move before they took place. When a telegraphic summary of the Gullón note was received, Woodford was informed that his Government discerned in it "a hopeful indication of change in the policy of Spain, although it would seem that the reforms to be decreed are to be supplemented, in all the most important particulars, by an enactment of the Cortes." Woodford was directed to suggest that "an immediate change in the treatment of the non-combatant Cubans would be an effective guarantee" of such a policy, and to emphasize this suggestion he was to lay before Señor Gullón information, recently received by the Department, showing the distressing conditions in *reconcentrado* camps, as well as the sufferings of the poorer classes of Cubans generally. When, on November 12, de Lôme called upon President McKinley, he found him in an affable mood. McKinley told him that he was confident that "as the measures continue to produce results, all motive for rancor will disappear." He also said that he was opposed to filibustering and that if he "had proof of any faults committed by federal employees they would be chastised immediately."

Down to this point, the time between the November elections and the meeting of Congress, the correspond-

ence shows that the Administration was desirous of peace and hopeful that it would be maintained. Perhaps sharing Woodford's scepticism about the Spanish brand of autonomy, it was content to wait a little and see if anything constructive was likely to be accomplished.

Whether the proposed autonomy as a basis of adjustment would satisfy the Cuban *insurrectos* and their American sympathizers was another question. Estrada Palma, one of the most influential Cuban leaders and long active in the New York Junta, came out with a statement that the promised autonomy was not real self-government at all and would not satisfy the Cubans. The truth is that by this time the revolutionary leaders were no longer striving for autonomy, but for independence, and a successful scheme of self-government would cut the ground from under their feet. Just how far this growing desire for separation from Spain was instigated and fomented by Americans with interests in the island was at the time, and still remains, in doubt. It seems to be true, however, that as soon as Spain appeared really to be trying to accomplish something which appeared to meet the demands of the revolutionists, such as had been stated at the beginning of the uprising, there came renewed efforts on the part of certain newspapers and individuals casting doubt on Spain's good faith and condemning her plan before it could be tried, and even before it had been put forward in detail.

After the full text of Gullón's note had been received and studied in Washington, an answer, dated November 20, reiterated the sentiments expressed in the telegram which acknowledged receipt of the cabled summary; namely, that it appeared to indicate a change

of policy.[23] "At the same time the most encouraging signs come to me, alike from the Peninsula, from Cuba, and from the honored representative of Spain at this capital, of the singleness and earnestness of purpose wherewith the home Government and its responsible agents in Cuba are laboring to bring about an instant change in the order of things in that island which has so long distressed this Government and the generous and sympathetic people of the United States." The President, recognizing that everything could not be done at once, was satisfied that the spirit manifested in Gullón's note as well as in the Liberal Manifesto, which the party now adopted as a statement of policy, was animating the conduct of Cuban affairs. As to the imputation that the Government of the United States was negligent in enforcing its own neutrality laws, the note instructed Woodford to explain to what lengths and what costs the United States had gone in patrolling the coasts of Florida, Georgia, and sometimes of states even farther north. The activity of the navy, of the Treasury Department, and of the officers of justice would convince any candid observer that the Government of the United States was sparing no pains to prevent the setting out from American ports of any expeditions calculated to aid Cuban insurgents. It was to be noted, however, that, since Spain would not concede that a state of war existed in Cuba, the duties and obligations of the United States were not the same as though that had been the case.

CHAPTER V

ATTEMPTED AUTONOMY

THE royal decrees embodying the reforms that the Spanish Government had resolved to try in Cuba were promulgated November 25, 1897. Two of them conferred upon Cubans and Porto Ricans all rights enjoyed by Peninsular Spaniards, including the same franchise privileges. The third decree, which had to be ratified by the Cortes, outlined a frame of autonomous government by which all powers, except as to foreign relations, war, and marine, were to be vested in a Cuban parliament and a governor appointed by the crown.[24]

Woodford's cabled summary of these decrees was received in Washington in time to be in the President's hands before he completed his annual message—a message awaited eagerly both in the United States and in Spain. The part relating to Cuba bears the marks of Judge Day's collaboration and may be taken as an expression of both his views and those of the President. After a historical sketch of the Cuban situation, as it affected the United States, McKinley enumerated possible courses open to the executive: recognition of the insurgents as belligerents, which he considered at the time "unwise and therefore inadmissible"; recognition of the insurgent Government, which was impracticable on grounds similar to those taken by President Grant in his message of December 7, 1875; and intervention.

As to the last alternative the President said: "Should such a step be now taken when it is apparent that a hopeful change has supervened in the policy of Spain toward Cuba? A new government has taken office in the mother country," a government pledged in advance to a course different from that pursued by its predecessor; and already, with a new Captain-General, the situation was looking more promising. No American citizens were reported as being under arrest, and all the specific complaints of infringement upon the rights of American citizens were on the road to settlement if not already adjusted. Under the circumstances, said the President, "I shall not impugn its [the Spanish Government's] sincerity, nor should impatience be suffered to embarrass it in the task it has undertaken."

It is probable that the references to Cuba in the message were more pleasing to Spanish ears than to the majority of Americans, for those papers and persons who had been calling for intervention redoubled their efforts and did not fail to criticize McKinley's sentiments. Hannis Taylor characterized them as "egotistical and heartless, cold and cynical." On the other hand, those who were not anxious to rush into a war with Spain praised it as a sane, temperate, and well-reasoned statement. De Lôme in Washington and Gullón in Madrid both expressed their gratification at the tone of the message, although the former, in a dispatch to his own Government, opined that much which was annoying in the references to Spain and Cuba was put in to meet the sentiment of Congress—a mild version of what he said in the Canalejas letter which stirred up so much trouble two months later.[25] Gullón personally

stated to Woodford his gratification at the tone of the message.

For a month the situation remained without material change. On December 20 Woodford formally presented his Government's answer to the Spanish note of November 23, having delayed in doing so both on account of a request from the Spanish Minister of State and the Minister of Colonies, Señor Moret, and, as he telegraphed the Department, in order "to study the effect of the President's message and Weyler's arrival and conduct at Madrid." Both the President and Day were out of Washington from December 6 to 16, and on December 18 Congress adjourned for the holidays. De Lôme reported everything quiet at the capital and was able to reassure his Government regarding a reported concentration of American naval forces in West Indian waters.

Both the Spanish and the American Governments were aware that if increased friction was to be avoided, the Spanish program in Cuba must proceed steadily, with no untoward events, for it was clear to all that any slip, any disturbing occurrence, would revive an insistent demand for intervention. The concentration orders of Weyler had been modified by General Blanco, but, with so large a portion of the island uncultivated and so many people necessarily dependent on charity for a considerable time, there was bound to be much suffering. Day was receiving from American consuls in Cuba almost daily reports, and all showed that with the best of intentions, even with co-operation on the part of all factions, progress would be slow and that meantime thousands would suffer and many would die from privation and disease.[26]

Politically the island contained three distinct groups. One of these, probably numerically as large as either of the others, but less well organized, was composed of conservative elements inclined to believe that the autonomy scheme would work; a second, largely Peninsular Spanish, was against the plans of Sagasta's Government and the conciliatory measures of General Blanco; a third was the insurgent group now insistent on an independent Cuba. The last knew that if autonomy was put into effect and worked, independence was doomed, at least for a time. It was a difficult task that the Spanish Government had to perform, and there were many, including some of the American consular representatives, who doubted the ability or questioned the faith of Spain.

Fitzhugh Lee, the consul-general at Havana, wrote confidentially to Day: "The intelligent Spaniards . . . see no prosperity in the future, but rather other wars and more confusion in the same old attempts to make the waters of commerce flow in unnatural channels. The lower Spanish classes have nothing in mind when autonomy is mentioned except Cuban local rule; hence their opposition."[27] Lee thought Blanco was an "excellent man, but in an unfortunate position." Consul A. C. Brice reported from Matanzas that "Spaniards as well as Cubans, are not in sympathy with proposed autonomy and reforms." Pulaski F. Hyatt, consul at Santiago de Cuba, had been informing the Department for months that the Spanish residents in his part of the island were "very outspoken in favor of closing the war and annexation to the United States." Walter B. Barker, from Sagua la Grande, wrote on January 15: "In

this consular district a reign of terror and anarchy prevail which the authorities, be they so disposed, are utterly powerless to control or in any measure subdue." Meantime the Cuban Junta in New York was utilizing every possible incident to convince the American people, Congress, and the President that autonomy would never do, that independence was the only cure for Cuba's ills.

Under the circumstances, President McKinley was beginning to lose the hopefulness expressed in his annual message, and Judge Day seems to have despaired, even before the President did, of a successful outcome of Spain's efforts. Nevertheless, they continued in a disposition to play a waiting game unless their hand should be forced.

CHAPTER VI

THE APPROACHING CRISIS WITH SPAIN

AFTER Congress reassembled in early January 1898, all remained quiet until the middle of the month, and then there came that series of episodes, each one of which under normal circumstances would have produced no impossible international situation. As things were, however, every untoward event was capitalized and the American people were ever more deeply convinced that intervention was the only remedy.

On January 13 there came from Lee a telegram announcing that demonstrations accompanied by attacks on three newspaper offices had occurred in Havana.

> "Uncertainty exists whether Blanco can control the situation. If demonstrated he can not maintain order, preserve life, and keep the peace, or if Americans and their interests are in danger, ships must be sent, and to that end should be prepared to move promptly."

Another telegram a little later showed that the riot had not been extensive; it had been staged mostly by Spanish officers who were opposed to Blanco and his first steps in introducing autonomy. Nevertheless, de Lôme and the Spanish Cabinet were much concerned over the affair. The former telegraphed on January 16: "The news from Habana is not improved; if it continues

it will cause the situation here to change. The sensational press is just as it was at the worst period, and the Government and Cabinet, although they have said nothing to me, seem to have lost all faith in Spain's success, and, to some extent to have lost tranquility." He proceeded to report, "for what it was worth," information he had received from the Washington correspondent of the New York *Herald:*

> "He told me that in view of recent events the President has stated that, according to information he has received, autonomy in Cuba has come to nothing; that grave disorders are feared in Habana and throughout the island; and that, if the disorders are repeated, he had determined to land troops from the war vessels to protect the consulate. He asked me what would be done if that occurred. I told him it would mean fighting; that Spain would never submit to what was done in Korea and Crête. This may be taken as one of many such conversations and inquiries, to which I have thus replied."[28]

There is little doubt that what the *Herald* man told de Lôme about the President's shaken confidence in the success of autonomy had a basis of truth. One must believe that the constant dinning in his ears that it was a failure was having some influence.

The Havana excitement, however, calmed in a few days, and de Lôme was instructed to see Day and explain to him that this had been but a flash in the pan and that autonomy was actually gaining ground. De Lôme's telegraphed reply so succinctly states the situation as he saw it that it deserves to be quoted at length:

". . . If the acute period is past, resulting from the events in Habana, the effects are felt yet, as is shown by the debate yesterday in the House. The impulse given to jingoism must be mitigated. The American Government cannot and will not now make any statement, because it feels itself powerless to do so since a part of the Congressional majority watches in hope that something will be done in favor of the insurgents; in order to restrain it, such action has been taken as that of the maneuvers of the fleet of the United States, which produces a bad effect over there, but which here produces a result favorable to us. I have not thought it well either to-day or yesterday to speak with Day, in order to avoid a false rumor producing any effect in view of the excited state of public opinion. But I have spoken with Senator Hawley, the leader of the moderation side of the Senate, who tells me that he continues to feel confidence in his colleagues and the President. The worst result of the events in Cuba is that, as I have learned privately, it appears that General Lee has . . . reported to the Government that autonomy has failed, the riots at Habana giving a show of truth to that opinion."[29]

The next day de Lôme was more cheerful and reported that the crisis in Congress had passed. The "verbosity and extreme views" in the speech of Congressman Hitt had won over a "compact majority," although it caused a painful impression in Spain. At an interview with Day he "presented the question to him in all its crudity" and told Day that if the Ameri-

can Government acted as Spain had a right to expect, the Cuban situation would be settled; if, however, the Administration allowed itself to "be swayed by superficial public opinion" and continued to believe what "interested agents" said, it was impossible to "forecast the consequences." De Lôme had to admit to his Government that there could be no longer any doubt that the President was much impressed with Lee's statements regarding the failure of autonomy. But four days later he could report that after another interview with Day he could state definitely that the President had not "departed in any way from the attitude set forth in the message." After this conversation Day had a conference with McKinley and, a few hours later, another with the Spanish minister, to whom he stated that, as a result of the previous conversation and of reports from Woodford about commercial negotiations, the President was so convinced that the situation was satisfactory that he was about to order the *Maine* to proceed to Havana as a mark of friendship. General Lee, Day said, had not asked for a vessel to protect Americans at the time of the riot, though if he had, one would have been sent. One might wish another "de Lôme letter" to learn whether the Spanish minister considered this a disingenuous explanation.

The Spanish Government was not entirely satisfied with the stand of the Government of the United States, which did not apparently heed de Lôme's request that the outcome of autonomy be awaited, and did not proclaim its "unalterable determination to continue in the path of peace, scorning or overcoming every agitation to the contrary which" might be set in motion.

Nevertheless it formally accepted the proposal for a visit of the *Maine* as an indication of friendly feeling. The courtesy would be reciprocated by arranging for war-vessels of Spain to touch at American ports while passing to and from Cuba.

By the end of January, de Lôme thought that affairs had "entered upon a normal situation." On the occasion of the annual diplomatic dinner the President showed marked attention to the Spanish minister and said to him: "I see that we have only good news; I am well satisfied with what has occurred in the House, and with the discipline of the Republicans. You, who comprehend this, will understand how strong our position is and how much it has changed and bettered in the past year; you have no occasion to be other than satisfied and confident." Did McKinley waver between hope and despondency over the Cuban situation, or did he encourage de Lôme in this way while really harbouring quite a different view?

The fates were against the President's desires—or were they expectations?—for continued peace. They were also against the Spanish efforts, such as they were, to remove the causes of friction between the two Governments. On February 9 came the next of those incidents that made intervention and consequent war practically inevitable. On the eighth de Lôme telegraphed Gullón that he had learned that the next day there would be published in the New York *Journal* what purported to be a letter written by him to Señor José Canalejas in Havana. He said that while he could not recall what the letter contained, he realized that it might make his position in Washington untenable and

therefore placed his resignation in the hands of his Government. The *Journal* came out on the ninth with a Spanish facsimile and a somewhat garbled translation of the letter. Written about the middle of December 1897, it was a personal communication in which the Spanish minister commented on the general situation and on the annual message.[30] These were the offending passages:

> "The message has been a disillusionment to the insurgents, who expected something different, and has paralyzed the action of Congress, but I consider it bad; besides the ingrained and inevitable bluntness with which is repeated all that the press and public opinion in Spain has said about Weyler, it shows once more what McKinley is, weak and a popularity hunter, besides being a would-be politician who tries to keep a door open behind him while remaining on good terms with the jingoes of his party. . . .
>
> "It would be very advantageous to take up, even if only for effect, the question of commercial relations, and to have a man of some prominence sent hither in order that I may use him to carry on propaganda among the senators and others in opposition to the junta and try to win over the refugees."

Soon after the New York papers reached Washington, Judge Day was given the original of the letter; it was compared with specimens of de Lôme's handwriting and then brought to that gentleman's attention. De Lôme admitted at once that he had written the letter and said that, recognizing "the impossibility of his continuing

to hold official relations with this Government after the unfortunate disclosures," he had asked to be relieved of his mission. Day immediately telegraphed Woodford to inform the Spanish Government that the "publication in question had ended the Spanish minister's usefulness, and that the President expected his immediate recall."

Woodford received the dispatch on the morning of February 10, but was unable to see Gullón until the afternoon—the Cabinet was closeted all the morning trying to work out a solution of the situation. After the interview Woodford telegraphed that the Spanish Government "sincerely regretted the indiscretion" of their minister. A formal expression of regret and disavowal, however, did not come until, four days later, Woodford prodded Gullón with a note in which the objectionable passages were quoted and which ended with these words: "I beg to point out to your excellency the insulting character of the first passage and the insincerity which underlies the suggestions of the second."

The next day, February 15, Señor Gullón stated in writing what he said he had supposed the American minister had understood from their conversation; namely, that the Spanish Government lamented the incident and, in accepting the resignation, "disauthorized" de Lôme's words. As to the second paragraph, "The Government . . . is profoundly surprised that a private letter, dated, as it appears, on a day relatively distant, and the opinions of which can not properly be formed now, subsequent to recent agreements, can be invoked now merely on account of the significance of the signature as a germ of suspicion and doubts as opposed to

the unanswerable testimony of simultaneous and subsequent facts." His Government, Gullón maintained, was committed to "the new colonial regimen and the projected treaty of commerce," and had given ample proof of its good faith. On February 18 Day telegraphed Woodford that the incident was "satisfactorily closed" and Señor Gullón was to be thanked for his frank statement. In the same telegram Woodford was told to assure the Spanish Government that Don Luis Polo de Bernabé, chosen to succeed de Lôme at Washington, would, from his antecedents and the "recollection of his previous service as secretary here," have a cordial personal welcome.

The incident of the de Lôme letter was closed—officially. But one's imagination does not need to be preternaturally keen to realize how the letter, blazoned in staring head-lines across the front of a great metropolitan daily and copied from one end of the country to the other, raised still more insistently the demand for the Administration to "do something!" Then came the destruction of the *Maine*.

CHAPTER VII

THE *MAINE*

THE episode of the *Maine* takes the story back to January 12, when rioting broke out in Havana, and the following day, when Lee telegraphed that warships might be required to protect American interests. The situation, however, quieted, and no request for a war-vessel went to Washington.[31] A week later Lee received from Day a telegram: "Wire number and character naval vessels other countries now in port of Havana." The reply was that there was none, although two German ships were expected before the end of the month. Two days later Lee was told, as de Lôme was in Washington, that it was the purpose of the Government to "resume friendly naval visits at Cuban ports," and that the *Maine* would call at Havana in a day or two. Lee immediately advised that the visit be postponed six or seven days "to give last excitement more time to disappear." He added that he would consult the authorities, although the Governor-General was away for two weeks. From Washington came Day's answer:

> "*Maine* has been ordered. Will probably arrive at Havana some time tomorrow. Can not tell hour; possibly early. Cooperate with authorities for her friendly visit. Keep us advised by frequent telegrams."

Early the next morning Lee apparently made one more effort to delay the *Maine's* coming when he telegraphed:

"At an interview authorities profess to think United States has ulterior purpose in sending ship. Say it will obstruct autonomy, produce excitement, and most probably a demonstration. Ask that it is not done until they can get instructions from Madrid, and say that if for friendly motives, as claimed, delay unimportant."

A few hours later he reported the *Maine's* arrival.

The action of the Administration in hurrying a battleship to Havana is hard to reconcile with its previous course. The vessel was rushed off before Lee could find out the attitude of the local authorities and before they could hear from Madrid. Day's explanation to de Lôme was that Woodford's reports concerning commercial negotiations and the results of the conferences in Washington were so satisfactory that the President had "determined to send the *Maine* as a mark of friendship, and the Secretary of the Navy would so state to the press." The President believed, added Day, that it had been a mistake not to have a vessel visit Cuba during the previous three years, since "now what is a fresh proof of international courtesy is looked upon as a hostile act."[32]

Whatever the Spanish Government may have felt about the proposal, outwardly the explanation was taken at its face value, although the *Maine* was actually in Havana harbour before de Lôme could inform Day that Gullón had telegraphed his approval of "these demonstrations of cordiality and courtesy to the full extent of their value." Certainly there had been no new untoward development in Cuba, and such a "mark of

friendship" at such a moment was bound to be misinterpreted both in Spain and in the United States.

After the *Maine's* arrival everything was peaceful. Her officers were received by the proper Spanish authorities with the usual courtesies. Ten days later—ten days marked by nothing out of the ordinary—Day telegraphed to ask Lee whether, for sanitary reasons, it was, as the Secretary of the Navy feared, imprudent to hold the vessel there longer. Lee answered the same day that there was not the slightest "sanitary danger to officers or crew until April or even May," and advised against withdrawal then, "or conditions would be worse than if no vessel had ever been sent." If other riots occurred, Lee thought they would be directed against the Governor-General and autonomy and might include anti-American demonstrations as well: "First class battleship should replace present one if relieved, as object lesson and to counteract Spanish opinion of our Navy, and should have torpedo boat with it to preserve communication with Admiral."

Then, out of a clear sky, came Lee's shocking telegram dated 12.30 p.m., February 16, 1898:

> "*Maine* blown up and destroyed tonight at 9.40 p.m. Explosion occurred well forward under quarters of crew; consequence many were lost. It is believed all officers saved but Jenkins and Merritt not yet accounted for. Cause of explosion yet to be investigated. Captain-General and Spanish army and navy officers have rendered every assistance. Sigsbee and most of his officers on Ward steamer *City of Washington*. Others on Spanish man-of-war and in city. Am with

Sigsbee now, who has telegraphed Navy Department."

There was never any official charge by the American Government that the Spanish Government was in any way implicated in the affair, if indeed the explosion was caused by a mine or a torpedo.[33] But to the popular mind the destruction of the *Maine* was just another proof of Spanish duplicity and treachery. The tide of public excitement rose higher. Congress reflected the frenzy.

CHAPTER VIII

DRIFTING INTO WAR

BOTH Governments hoped to maintain peace. War would be disastrous to Spain, as every thinking Spaniard knew. Nevertheless, if Spain tried to solve the problem by selling Cuba or by yielding too easily to American demands, the country, it would appear, might be in the throes of a revolution overnight. While in a material way war would mean far less to the United States, those in positions of executive responsibility believed that its political implications were alarming; on the other hand, if McKinley opposed public opinion too long, he could well fear that he would lose the confidence of his countrymen. Something of the dilemma is suggested in a personal and confidential letter that Day wrote Woodford on March 3.[34] After commenting on the de Lôme letter and expressing his satisfaction that the incident had terminated, he went on to say:

". . . Everybody I see seems well pleased with it [the termination of the de Lôme episode], and no one wished trouble about a matter of this kind. If a rupture between the countries must come, it should not be upon any such personal and comparatively unimportant matter. We sent you day before yesterday full instructions covering the Cuban situation, as you will see it is bad enough.

"The de Lôme incident, the destruction of the *Maine*, have added much to the popular feeling upon

this subject, although the better sentiment seems to be to await the report of the facts, and to follow the action of the President after the naval board has made its report. Whatever the report may be, it by no means relieves the situation of its difficulties. The policy of starvation, the failure of Spain to take effective measures to suppress the insurrection, the loss of our commerce, the great expense of patrolling our coast—these things, intensified by the insulting and insincere character of the De Lôme letter, all combine to create a condition that is very grave, and which will require the highest wisdom and greatest prudence on both sides to avoid a crisis. . . ."

General Woodford knew that the situation was grave, and he could see something of the other side of the question as he reported in a note of March 17:[35]

". . . With the exception of Minister Moret and those whom his splendid courage and personal magnetism inspire and control, I do not think that any thoughtful man in Madrid now believes that autonomy, and what is euphemistically called 'influencing rebel chiefs,' and military operations combined can practically suppress the rebellion *before the rainy season begins.*

"Señor Sagasta, an experienced statesman, a loyal Spaniard, and a faithful friend of the Queen . . . waits hoping against hope. I think he would do anything for peace that Spain would approve and accept. Señor Gullón evidently doubts whether peace can be maintained with the United States. . . . I think that

the Queen is disappointed and anxious. Well she may be, for she has struggled with admirable courage and wonderful faith for her son and her dynasty."

Woodford's own solution was American occupation of Cuba:

"I am thus, reluctantly, slowly, but entirely a convert to the American ownership and occupation of the island. If we recognize independence, we may turn the island over to part of its inhabitants against the judgment of many of its most educated and wealthy residents. If we advise the insurgents to accept autonomy we may do injustice to men who have fought hard and well for liberty, and they may not get justice from the insular government should it once obtain control of the island. . . . If we have war we must finally occupy and ultimately own the island."

These views Woodford put before Señor Moret, the Minister of Colonies, and such other influential Spaniards as he had opportunity. Even Moret apparently saw the inevitability of the loss of Cuba, and Woodford was encouraged to ask, in this communication wherein he related what took place during an unofficial conversation, for a definite statement of what the Administration's terms of settlement were. The reply coming from Day was this:[36]

". . . Confidential report shows naval board will make unanimous report that *Maine* was blown up by submarine mine. This report must go to Congress soon. Feeling in the United States very acute. People

have borne themselves with great forebearance and self-restraint last month. President has no doubt Congress will act wisely and immediate crisis may be avoided, particularly if there be certainty of prompt restoration of peace in Cuba.

"*Maine* loss may be peacefully settled if full reparation is promptly made, such as most civilized nations would offer. But there remain general conditions in Cuba which can no longer be endured, and which will demand action on our part, unless Spain restores honorable peace which will stop starvation of people and give them opportunity to take care of themselves, and restore commerce now wholly lost. April 15 is none too early date for accomplishment of the purposes. Relations will be much influenced by attitude of Spanish Government in *Maine* matter, but general conditions must not be lost sight of."

Certainly here was no very specific instruction, and, furthermore, Woodford's hints and suggestions about the purchase of Cuba were completely ignored. Such as it was, however, Woodford imparted its contents to Moret on the morning of Tuesday, March 22, and arranged to present them officially the next day to Gullón. In telegraphing to the President what he had done, he added: "Should I be asked to suggest what would be acceptable to you, please instruct me by telegraph as to my answer." All the reply he got was this telegram from Day: "The President approves your statement to the minister for the colonies, as given in your No. 49. He will await your telegram after your interview with the minister for foreign affairs." It is evident from this

not only that any idea of purchasing Cuba had been dismissed, but that the burden was to be placed on Spain of finding a solution satisfactory to the United States. When, on Wednesday morning, the interview with Gullón took place, and the latter asked for a delay in presenting the whole matter to the United States Congress until the beginning of the rainy season, Woodford told him "kindly but firmly" that he did not believe such a delay would be possible.

The next afternoon, March 24, 1898, Moret called on Woodford and unofficially proposed that his Government suggest the question of an early peace to the Cuban Congress which was to meet May 4. In answer to a question about military operations he replied that an "immediate armistice or truce . . . be enforced by the Spanish Government upon its army provided the United States can secure the acceptance and enforcement of like immediate truce by the insurgents." In answer to Woodford's further inquiry as to what would happen if a permanent peace had not been arranged before the end of the next rainy season, about the middle of September, Moret replied that he would advise his minister that both the Governments should compel both parties to accept such settlement as would be satisfactory to the United States and Spain, the terms to be arranged before September 15. The following afternoon, however, the official statement from Gullón was, as Woodford put it, so vague as to involve uncertainty.[37]

In part the difficulty of securing a categorical statement from Spain was due to a hope that the European powers would exert some pressure upon Washington in

such a manner and with such a result that Spain would not appear to be yielding to pressure. The day before Gullón gave Woodford the reply that the latter found so unsatisfactory, the Spanish representatives abroad were informed of the substance of what Gullón would tell the American minister: "I shall reply to-morrow that the most elemental justice demands, regarding the *Maine*, a cognizance of the report of the Spanish commission; its comparison with the American to be done, of course, in a tranquil atmosphere, and outside of Congress; and in the event of irreconcilable disagreement, submission to a decision of other dispassionate judges. Touching the agreement to assure an immediate and satisfactory peace for the Cubans, the Spanish Government deems it indispensable to know at least the sentiments and wishes of the insular congress of Cuba, which will convene on the early date of May 4."[38]

On March 25 the diplomatic representatives of Spain were requested to inform the several Governments to which they were accredited of what had taken place and to ask their "friendly offices in order that the President of the United States may retain under Federal control all questions affecting the relations or differences with Spain in order to bring them to an honorable conclusion." This hope of foreign mediation, which had been entertained for some time by the Spanish Government, was without doubt one of the reasons that explain the temporizing and delay which, in turn, so exasperated McKinley and Day and confirmed them in a belief that it would be impossible to obtain a workable solution of the Cuban issue so long as there was any way of squirming out. That something must be done and

done quickly was now the feeling of the President and his advisers. A telegram from Day, dated March 26, not only summed up the Washington view, but also put an end to the idea that the United States might buy Cuba. Nothing new was put forward in this instruction, which contained again a list of American grievances, except this sentence: "We do not want Cuba."[39]

The next day Moret called on Woodford again and told him that Señor Sagasta would be glad to talk with him informally "on the subject of an immediate suspension of hostilities in Cuba through means of an armistice of truce." On the same day Woodford received from Day a telegram that, for the first time, was a definite proposal. Would the Spanish Government agree to these propositions: (1) an armistice until October 1, with negotiations for peace meantime between Spain and the insurgents through the friendly offices of the United States; (2) an immediate revocation of the concentration orders to permit people to return to their farms, "the needy to be relieved with provisions . . . from the United States coöperating with the authorities so as to afford full relief"? If possible Woodford was to secure an arrangement whereby, if a definite peace had not been established by October 1, the United States should be the final arbiter between Spain and the insurgents. If the Government of Spain would agree to the proposals, the President would use his friendly offices to get the insurgents to accept the plan.

Just before this telegram was received, Woodford, in order to be able to know just what to say to Sagasta, had telegraphed Washington to have certain points in

the message of March 25 more definite: "Do the words 'full self-government' mean actual recognition of independence, or is nominal Spanish authority over Cuba permissible?" To this came the answer from Day: "Full self-government with indemnity would mean Cuban independence."

Here, then, is the solution that McKinley, and probably at an earlier date Day, had reached. The United States would not buy Cuba, but Spain must bring the war to a close with a definite understanding that the outcome of further arrangements would mean the giving up of her last considerable remnant of empire in the New World. It meant more than this. It meant that McKinley and Day, by insisting on independence for Cuba, were proposing terms which they knew, or ought to have known, that Spain would not and probably could not accept. In other words, they were proposing something that must inevitably lead to intervention and war. In spite of the detailed reports Woodford had been sending, it is quite possible that neither the President nor Day really understood what the Spanish Government was facing; they probably did not understand that the blow to Spanish pride either in yielding to the United States or in granting voluntarily a truce to the insurgents meant an overthrow of the Spanish Government and very likely the downfall of the dynasty.

Immediately the question arises: how can one explain this apparent determination to force the issue and to insist on a program that Spain would not accept? Such a question cannot be answered categorically, but some of the factors that may be reckoned with are obvious. The course of events in Cuba had stirred Americans

to a high pitch. As a rule, they were convinced that conditions on the island were intolerable—indeed, Senator Proctor's speech on March 18, after he had visited Cuba, corroborated all they had been reading in the newspapers. They were convinced, and probably rightly so, that Spain had not been a successful ruler of dependencies, that her authority, exercised too often by corrupt officials, had been accompanied by political and economic restrictions long out of date. Furthermore there was a deep-seated belief that the Spaniard was treacherous and tricky. Both Day and McKinley had become suspicious of the good intentions of the Spanish Government, and the delays which had accompanied the whole negotiation could but strengthen them in these convictions. In addition to all this, it cannot be forgotten that President McKinley was an astute politician who knew how to guage public opinion. No doubt he would have been glad to find a peaceful solution of the problem, but if he delayed too long and Congress took the bits, where would be his leadership of the party, to say nothing of the country?

Woodford was not left in the dark as to the pressure that was being put on the Administration. Again on March 30 Day telegraphed:

> "You should know and fully appreciate that there is profound feeling in Congress, and the gravest apprehension on the part of the most conservative members that a resolution for intervention may pass both branches in spite of any effort which can be made. Only assurance from the President that if he fails in peaceful negotiations he will submit all the facts to

Congress at a very early date will prevent immediate action on the part of Congress."

From the end of March to April 11 Woodford exerted himself to the utmost to bring to the Spanish Government a realization that if American demands were not met, it meant intervention and war, and to utilize such concessions as were made to hold his own Government back. His critical interview of March 31 was disappointing: "Yesterday's conference was a sorrow to me, for I have worked hard for peace." That conference, he had telegraphed at its close, had "turned, as I feared, on a question of punctilio. Spanish pride will not permit the ministry to propose and offer an armistice, which they really desire, because they know that armistice now means certain peace next autumn. I am told confidentially that an offer of armistice by the Spanish Government would cause revolution here. Leading generals have been sounded within the last week, and ministers have gone as far as they dare to go to-day. I believe the ministry are ready to go as far and as fast as they can and still save the dynasty here in Spain." Nevertheless, when he sent the dispatch confirming the telegram, he added this comment: "Perhaps this is true, but they said the same some weeks ago and yesterday they yielded on two points. First they are willing to arbitrate the *Maine* matter. . . . Secondly, they revoke the reconcentrado order. . . . It is not so long since they denied the very existence of the horrible conditions they now admit." The populace, Woodford said, had been most truculent in the previous September, but at this time the war spirit was

manifested mostly by the "aristocracy, the political classes, and the generals and officers of the army. The army is still the controlling factor in Spanish politics, and the attitude of the army constitutes the real danger today."

While the tenor of Day's dispatches shows that he had virtually given up hope of a peaceful outcome, formally the armistice question was the final stumbling-block. The kind of armistice acceptable to the United States was defined by Day in a telegram of April 4: ". . . An armistice involves an agreement between Spain and the insurgents which must be voluntary on the part of each, and if accepted by them would make for peace. . . . An armistice, to be effective, must be immediately proffered and accepted by the insurgents." While Woodford, retaining a glimmer of hope that war could be avoided, was working with various members of the Spanish Government to get them to realize that his own Government meant business, the Administration in Washington was being confirmed in its belief that negotiation was hopeless. When the Spanish Government, inadvertently or otherwise, gave it out that the Pope was offering to mediate at the suggestion of the President, it produced an unfortunate reaction in the United States and probably helped fix in Day's mind the idea that the Spaniards were not to be trusted. When Gullón asked that American war-vessels be withdrawn from the vicinity of Cuba and Key West, it must have strengthened the belief that Spain itself did not expect a continuation of peace. The manner in which Blanco's proclamation withdrew the concentration orders aroused suspicion. Then, when a copy of the auton-

omy manifesto was received from the new Spanish minister, Day telegraphed Woodford: "It is not an armistice. . . . It is simply an invitation to the insurgents to submit, in which event the autonomy government, likewise suspending hostilities, is prepared to consider what expansion if any of the decreed home-rule scheme is needed or practicable. It is scarcely necessary to point out that this is a very different thing from an offered armistice. The President's message will go in on Wednesday afternoon." A little earlier on the same day Woodford had received word to notify the United States consul-general and to co-operate with him in notifying consular officers in Spain to prepare to leave their offices in charge of a friendly power.

The message, however, did not go in on Wednesday. It was delayed until the following Monday, April 11, principally at the earnest request of Lee, who wished more time to ensure the safe departure of Americans from Cuba. The respite was useless so far as preventing American action was concerned; neither had the suggested papal mediation nor the representations of the European powers any influence. Moreover, the eleventh-hour yielding by Spain on the armistice question was without avail. The message had been prepared, and, while the substance of the communication regarding the armistice was tacked on to the end, the document as a whole was not modified by it.

After rehearsing in some detail the story of the Cuban revolt and its bearing on the United States, and outlining the course that he had pursued, McKinley summed up the case for intervention and asked Congress "to authorize and empower the President to take measures

to secure a full and final termination of hostilities between the Government of Spain and the people of Cuba, and to secure in the island the establishment of a stable government, capable of maintaining order and observing its international obligations, insuring peace and tranquillity and the security of its citizens as well as our own, and to use the military and naval forces of the United States as may be necessary for these purposes."[40]

Congress immediately proceeded to consider resolutions introduced to confer the desired authority and, after a brief discussion, to pass them by overwhelming majorities. The President's message was taken at its face value as a direct invitation for Congress to authorize that intervention which a majority of both houses had been striving for so long. Intervention was followed by a declaration of war by Spain and this in turn by a declaration of the existence of a state of war by Congress, and the Spanish-American War began.

CHAPTER IX

THE QUESTION OF MEDIATION

THE foregoing narrative has shown that when General Woodford was sent to Madrid, the Administration contemplated the possibility of a rupture with Spain, although it was hoped and, until the early part of 1898, possibly expected that it would not come. Under the circumstances, however, it was well not only to put America's case before the other powers, but to ascertain discreetly what the probable attitude of those powers would be if a peaceful solution was not found. In pursuance of both of the ends, Woodford took occasion, when a favourable opportunity presented itself, to explain at considerable length the interest the United States had in the Cuban situation and to show why it was a matter of vital importance that the intolerable conditions should change. He talked with the British ambassador, the Russian representative, as well as with the ambassadors of France and the German Empire, knowing well that each would report the substance of the conversation to his Government.[41]

The German Government was particularly interested in what its ambassador at Madrid, von Radowitz, had to report. At the suggestion of Emperor Wilhelm the German ambassador at Vienna was directed to sound the Austrian Government on a possible joint representation with a view to maintaining intact the monarchical principle of government and to preventing the

unsettling political and economic readjustments that might follow a clash between the United States and Spain.[42] Nothing was done at the time because it appeared that there might be no rupture of good relations, but the attitude of the German Government as expressed in an instruction of September 1897 to the ambassador in Austria was essentially that which was maintained throughout the period until hostilities actually broke out. That attitude may be summed up in this way: the German Government was willing to cooperate with the governments of the other principal European powers in mediating between the United States and Spain; it would have gone to the point of intervention had it received the necessary support.

Austria, France, and perhaps Russia were likewise willing to mediate and, if necessary, to intervene. No one of them, not even Germany, was willing to take the initiative, and the cause of all this coyness was the attitude of Great Britain. Every suggestion, and there were many of them, emanating from the foreign office of Berlin or Paris or Vienna met with coolness in London, and there was considerable grumbling in the other capitals. An outburst of the Kaiser's, written at the end of a dispatch that came to the German Foreign Office after war had actually started, may be taken as a not wholly uncharacteristic sentiment of most of the continental governments:

> "England wants to play the same game she did years ago when avowedly she provoked the outbreak of the Græco-Turkish war. She stirs up action of all the powers and apparently participates until they

have compromised themselves with the belligerents; then she draws back, pharisaically beats her breast, declares she never had a part in it, secretly joins with one of the combatants—naturally always the stronger—and incites it against the Continental powers. Meantime at their [the powers'] expense she begs special trading concessions from it. England won't belong to Europe, it won't throw its lot with the Continental Powers, but wants to establish an independent continent for herself between this continent and Asia or America."

In the United States during the period when the tension was increasing and when war came, there was keen realization that, aside from England, the people and the governments of the principal European states were much more friendly to the Spanish than to Americans. The press of France, Germany, and Austria was outspoken in its sympathy for Spain, whereas, with very few exceptions, that of Great Britain was friendly to the United States. The sentiment expressed in the London *Spectator* of September 25, 1897 may be taken as typical of the general run of English comment:

"It is hardly necessary for us to say that, if war takes place, our sympathies will be with our own flesh and blood, and not merely because they are our own flesh and blood, but because we believe that the rule of Spain in Cuba is an outrage on humanity."

Needless to say, the reasons given by the *Spectator* were not the only reasons why British sympathy lay

with the United States, but this is no place to take up a consideration of European international relations at the close of the nineteenth century, including, as they did, Germany's policy in South Africa and the new German naval program. To Americans generally such outspoken British sympathy was most grateful and they had no intention of probing far behind the statement itself. It was satisfying to have this assurance of moral support and tacit governmental sympathy when they were wondering why everybody did not understand the righteous cause they supported, and insisted on sympathizing with the wrong person.

That only Great Britain was openly sympathetic with the United States did not mean that at any time there was real danger of difficulty with any other power. No one of them was willing to take the lead, even in an effective gesture, and all of them together were reluctant to act if Great Britain should hold aloof. For a time, nevertheless, there was considerable popular alarm in the United States, or at least apprehension that trouble, especially with Germany, might arise. So much newspaper comment was aroused at the tone of hostility in the German press that at one time the Department of State contemplated sending to Germany a prominent citizen of St. Louis, Joseph Brückner, as an unofficial envoy to use his influence to change this tide of sentiment, but nothing was done. Day, now Secretary of State, apparently was at no time seriously disturbed.

There is no evidence that, in the days just before the war came, Day was aware of the somewhat feverish interchange of communications between European

capitals over Spanish-American affairs. He could, however, glean from the dispatches that came from Colonel John Hay, then American ambassador near the Court of St. James's, some information of what was going on; but whatever disturbance these intimations might have aroused was allayed by the other signs that the British Government was discouraging every proposal which might lead to serious interference. Just how much the Administration relied upon this British influence and how much its course was pursued ignoring and ignorant of the European situation, it is difficult to say.

In February and March 1898, when the series of untoward events intensified the drift towards war, the Spanish Government twice approached the other European powers for some sort of support or something that would prevent an armed clash. It found every avenue blocked by the unwillingness of any one power to take the lead. On March 26, after Spain sent her second appeal to the powers, the German Chancellor, Prince von Bülow, instigated by a new suggestion from Vienna that Germany take some effective step, telegraphed Otto von Bülow, accredited to the Papal Court, to ascertain whether His Holiness would not be induced to tender his good offices. The suggestion of papal mediation seemed to offer the best chance of success, and on March 27 the Pope telegraphed Archbishop Ireland of St. Paul to go to Washington to work in the interests of peace. There is reason to think that President McKinley was not entirely averse to this notion of papal mediation, but when it was announced in Madrid that the suggestion came from the President,

it was necessary to repudiate entirely any suggestion that American affairs were being guided from Rome.[43] The report of Archbishop Ireland's visit to Washington as given in the New York *Tribune* of April 5 shows something of the reaction to the way in which the news had gone out:

> ". . . About 12.30 o'clock today Archbishop Ireland came to the State Department and went directly to the office of Assistant Secretary Day. . . . [He] remained with Judge Day about a quarter of an hour, and soon after his departure the Assistant Secretary started for the White House.
>
> "The Archbishop declined to discuss the purpose of his call, saying it was merely to pay his respects, and showed some annoyance when inquiry was made as to the direction of Papal influence. While the call renewed the talk about mediation, a general impression prevailed throughout official circles that no mediation of the Pope and no influences in that direction would be seriously entertained by the United States Government."

Spain's formal request for the powers to employ their good offices in its behalf resulted in the presentation to the President by their representatives of a formal note on April 7, to which McKinley returned answer that, while appreciating the spirit in which the good offices were tendered, the situation must be handled directly by Spain and the United States. The President and his closest advisers were aware that this was a formal representation and that a refusal of the mediation

would be followed by no other action. Sir Julian Pauncefote, the British ambassador, had been instructed, according to what Mr. Balfour told John Hay, "to do nothing about collective representations except what would be agreeable to the President."[44] Furthermore, according to the Washington correspondent of the London *Times*, George W. Smalley, a close friend of Sir Julian's, "not only was the original note presented on April 7 by the Diplomatic Body and drafted by Lord Pauncefote submitted to the President for approval in advance, but the text was concerted between Lord Pauncefote and Mr. Day, then [*sic*] Secretary of State; alterations were suggested by Mr. Day and accepted by Lord Pauncefote, and the President's answer was written with the text of the note before him."[45]

There was one more attempt on the part of the diplomatic corps in Washington to secure a delay when it was learned that Spain had yielded the point of the armistice. The representatives of the six powers met and drew up a statement in which attention was called to Spain's latest concession, and the suggestion proffered that this made it possible to adjust Cuban difficulties without American intervention. When the several ambassadors communicated what they had done to their respective governments, they were directed to go no further with the matter. Not until 1902, when in connexion with other matters the episode was dragged to light, did anybody in Washington know that such a proposal had been contemplated.[46]

CHAPTER X

PROBLEMS OF A SECRETARY OF STATE IN WAR TIME

IN a war so one-sided and so brief as that between the United States and Spain there was little opportunity for many questions of serious international import to arise. Furthermore, owing to a variety of circumstances, the connexion of Secretary Day with some, if not most, of the few issues is not especially marked. When, for example, the President issued his formal proclamation of April 26, 1898, in which were set forth the rules under which the war would be conducted on the part of the United States, this document went out over the name of Alvey A. Adee, then Acting Secretary of State; Secretary Sherman had resigned on the previous day and the new head of the Department was out of town and had not yet taken his oath of office. The details of the proclamation, it seems fair to assume, must have been talked over earlier by the President and Day, for the matter had been brought to McKinley's attention before Spain declared war.[47] Its most significant part was found in the statement that the United States would not resort to privateering, but would adhere to the rules of the Declaration of Paris.[48]

Some slight friction arose over the seizure of one or two vessels suspected of having attempted to run the blockade established on a portion of the north coast of Cuba by a proclamation of April 22 and extended to a

part of the south coast and to the port of San Juan in Porto Rico on June 27. The French liner *Lafayette*, sent to Key West on May 6 on suspicion that it had been attempting to enter Havana harbour, was released two days later on representations of the French ambassador, Jules Cambon. Another vessel of the same line, the *Olinda Rodriguez*, was taken by the cruiser *New Orleans* and sent with a prize crew to Charleston on July 17, because it was suspected of having tried to enter the harbour of San Juan. This case was not cleared up until a decision of the Supreme Court, rendered May 15, 1899, declared that there was not sufficient proof of an attempt to run the blockade and ordered the unconditional release of the vessel.[49] Cables and their use, rights of belligerents in neutral ports, and like questions involved considerable correspondence, but no very important diplomatic issues.

The question of protecting American interests in Spain and its possessions gave rise to very little discussion. British authorities accepted this responsibility as well as that of safeguarding the American legation and the various consulates. In the United States Spanish subjects and interests were placed jointly under the protection of the French and Austro-Hungarian embassies, and questions arising out of alleged infringement of rights were handled for the most part by Assistant Secretary Moore.[50]

In the days when the tension between the United States and Spain was increasing, now and then a newspaper carried an item about the Philippine Islands, that oriental remnant of Spain's former empire. Judging from the surprise elicited by the news of Dewey's

destruction of the Spanish squadron at Manila, it would appear that few people had paid any attention to this distant archipelago, even though there had been a native insurrection there at the same time the Cuban revolution was raging. But the part that Manila might play if war came had not been overlooked by some officials. In September 1897 Assistant Secretary of the Navy Roosevelt had written to Henry Cabot Lodge that he had given the President a paper outlining what "ought to be done if things looked menacing about Spain, urging the necessity of taking an immediate and prompt initiative if we wished to avoid the chance of some serious trouble and of the Japs chipping in." After indicating what disposition he thought should be made of the Atlantic fleet, Roosevelt went on to say: "Meanwhile, our Asiatic squadron should blockade and if possible, take Manila." The War Department, however, seems never to have contemplated the possibility of military action in the Philippines, and this would indicate that probably neither the President nor Day anticipated anything more than a possible naval demonstration in those waters.

What Dewey's defeat of the Spanish squadron in Manila Bay presaged seems to have impressed itself on foreign governments before it did on that of the United States. Prince Henry of Prussia, brother of Emperor Wilhelm II, then commanding the German naval forces in the East, telegraphed to Prince Bernhard von Bülow from Hong Kong on May 11 to say: "A German merchant from Manila has stated in a way most worthy of credence that a rebellion has justified itself in the Philippines and will succeed; that the natives would

gladly place themselves under the protection of a European power, especially Germany." A day or so later the German Foreign Office received another cablegram, this time from the consul at Manila, corroborating Prince Henry's assertion: the insurgents were not fighting to change masters; they did not, however, think they were capable of establishing a republic and believed a kingdom would be better. "Existing conditions are such that the matter will probably terminate with the offer of the throne to a German prince. Ought the thing to be allowed to develop freely, or should it be waved aside?"[51]

When one considers that it had been only about a year before this that the German Government had obtained the lease of Kiaochow, and that Germany, entering late the scramble for colonial possessions which appeared so necessary to supplement her growing industrialism, yearned for overseas possessions, it cannot be doubted that an intimation of this kind fell on eager ears at Berlin. This suspicion is confirmed by correspondence that the German Foreign Office has since allowed to be published. From the time Prince Henry's telegram was received until it was made to appear that Germany had no chance to secure even a portion of the Philippine Islands, various efforts were made by the Kaiser himself and by the Foreign Office to bring about some situation that would leave at least a part of the archipelago open to German exploitation. The policy of the German Government may be summed up in the words that open a dispatch sent by von Bülow to Holleben, the German ambassador at Washington, on July 1, 1898: "His Majesty the Emperor deems it a

principal object of German policy to leave unused no opportunity which may arise from the Spanish-American War to obtain maritime fulcra in East Asia."

To some degree the hope that circumstances would be so shaped as to make these plans realities was stimulated by Andrew D. White, the American ambassador at Berlin. Being without instructions on the point and apparently never dreaming that his Government contemplated the retention of the islands, White, in a personal interview with Richthofen, then an undersecretary in the German Foreign Office, said that in his opinion the United States would want to keep no more than a coaling station or two in the East Indies and possibly some in the Antilles. He believed that the acquisition of overseas possessions would be a mistake: it would bring heterogeneous elements into the United States Congress and thus endanger the fundamental ideas on which the union was based; furthermore, on account of the frequent change in administrations, he doubted whether a successful colonial policy could ever be evolved.[52] When he reported this conversation to the Department, he was told to impress upon the German officials that this was his *private* opinion, that the Administration had come to no decision upon the point. What hope may have been inspired by White's remarks must have been much tempered by information that came from Ambassador Hatzfeldt in London, for neither from Lord Salisbury nor from Hay did he receive anything to encourage him in the belief that Germany's aspirations would be realized.

So far as Great Britain was concerned, Hay was able to telegraph Day on July 28 that it would prefer to see

the United States keep the Philippines.[53] Faced then with reticence when the question was brought up in London or Washington, the German Government reluctantly gave up the idea of securing all or part of the Philippines and turned to a plan of neutralizing the islands. When the peace protocol was signed in Washington, even the neutralization scheme was dropped and Germany contented itself with trying to secure at least a coaling station somewhere in the Philippines or in the Sulu Archipelago, and finally, when the peace conference was in session in Paris, sought compensation elsewhere.[54]

It was, of course, in connexion with the desire that somehow colonial extension for Germany might come out of the Spanish-American War that Vice-Admiral von Diederichs was ordered to take a portion of his Asiatic squadron to Manila, ostensibly to protect German interests. There is no reason to believe that at any time the German Government contemplated forcing matters. The friction between Dewey and Diederichs grew out of the situation itself and, possibly, from a little Prussian arrogance on the part of the latter. It was not a subject that appears to have caused either McKinley or Day any especial concern. A report, to be sure, was sent by Dewey to the Navy Department, but he himself says he intentionally refrained from troubling the President with it. Aside from one inquiry that Day sent White asking an explanation of the size of the German squadron at Manila, there is no correspondence to indicate any real perturbation over the situation.[55]

For the American Government the question of the

Philippines was an increasingly perplexing one. The final decision can be accredited neither to Secretary Day, although he was in favour of their retention, nor even to the President, except in a formal way. From an almost total popular ignorance even of the existence of the archipelago there came a swift revulsion to the keenest interest; from the time the news of Dewey's victory was printed until the treaty of peace was ratified, there was a growing demand for retention of the islands. Many business men beheld there an opportunity for profitable commerce and an American foothold in the Orient to match those that European powers had gained; religious organizations saw a field for missionary endeavour; and the average man, who could hardly have given a cogent reason for his belief, had a vague but none the less strong idea that it was the duty of the United States to confer the blessings of its institutions upon the poor Filipino, who had suffered so long under the yoke of Spain. "Manifest destiny" had come to life again! The fact that the insurrection which had been intermittently breaking out in the islands took new lease of life when Emilio Aguinaldo and other revolutionary leaders were assisted back to Luzon by the American squadron proved to many that there could be no other solution of the problem aside from independence under American protection, or American retention of the islands.

Added to all the popular pressure at home was a real problem in the Philippines themselves. As a matter of sheer military necessity troops had to be sent from the United States, and no sooner had General Merritt and his forces arrived than friction with the Filipino in-

surrectionists developed. Conflicting reports came back to Washington, but it became apparent that, even had there been no popular demand for retaining the islands, it was impossible to step out immediately and cast off all responsibility. While his report did not arrive until after the armistice had been signed, General Greene's "Memorandum concerning the Philippine Islands," drawn up on August 27, summarizes what had been trickling in from other sources, official and otherwise, for a month or more:[56]

"If the United States evacuate these islands, anarchy and civil war will immediately ensue and lead to foreign intervention. The insurgents were furnished arms and the moral support of the Navy prior to our arrival, and we cannot ignore obligations, either to the insurgents or to the foreign nations, which our own acts have imposed upon us. The Spanish Government is completely demoralized, and Spanish power is dead beyond possibility of resurrection. Spain would be unable to govern these islands if we surrendered them. Spaniards individually stand in great fear of the insurgents. . . . On the other hand the Filipinos cannot govern the country without the support of some strong nation. They acknowledge this themselves, and say their desire is for independence under American protection; but they have only vague ideas as to what our relative positions would be. . . .

"The hatred between the Spanish and the natives is very intense and cannot be eradicated. The natives are all Roman Catholics and devoted to the church,

but have bitter hatred for monastic orders—Dominican, Franciscan, and Recollects. They insist that these be sent out of the country or they will murder them. These friars own the greater part of the land, and have grown rich by oppressing the native husbandmen. Aguinaldo's army numbers 10,000 to 15,000 men in the vicinity of Manila, who have arms and ammunition, but no regular organization. They receive no pay, and are held together by hope of booty when they enter Manila."

Faced with a situation like this, prodded on by a popular demand to "keep the Philippines," encouraged to do so by England, aware that, if the reports were true, nothing could prevent those islands from becoming the dependency of some other power, and that certainly not Spain, the Administration, willy-nilly, was pushed into incorporating in the peace protocol a section which read:

"The United States will occupy and hold the city, bay, and harbor of Manila, pending the conclusion of a treaty of peace which shall determine the control, disposition, and government of the Philippines."

Uncommitted to any definite policy, the Administration held the door open to any solution. Secretary Day believed that retention of the islands was the only ultimate solution, but the problem remained unsettled at the time Day resigned the duties of Secretary of State and went to Paris at the head of the American peace commission.

CHAPTER XI

THE PEACE PROTOCOL

THE Spanish Government from the beginning had no illusions as to the outcome of the war. Every recourse had been tried to secure some effective aid in Europe and every one had failed. Faced with a two-fold threat of revolution, from reactionary Carlists and radical republicans, if too complete and too rapid a yielding to the United States was made, the Ministry had granted all that it felt could be surrendered and not expose the Government and the dynasty to overthrow. Some sort of fight had to be made to vindicate Spanish honour and satisfy Spanish pride.

That the war should be so completely one-sided was a surprise even to the people of the United States. The hopelessness of the struggle was seen as soon as the Spanish squadron was destroyed in Manila Bay, and as early as May 8 Ambassador Hay telegraphed that he had been asked unofficially by a member of the British Government whether the war would cease if Spain should offer through England to evacuate Cuba.[57] By June 3 Hay was told the terms that would be acceptable to the United States if acceded to immediately. Two days later Hay reported that Lord Salisbury would, if desired, suggest to Austria to advise Spain to make overtures for peace; this course was acceptable to the President, provided it was well understood that the overture came from Spain and not from the United

States. Before anything could be accomplished through Austria, Hay received word that the terms of June 3 might have to be modified with respect to the Philippines.

The result of these informal and roundabout negotiations took formal shape in a message, dated July 22, to President McKinley from the Duke de Almodóvar del Río, the new Spanish Minister of State, and submitted by Ambassador Cambon to Secretary Day.[58] Spain, said the Duke, was "prepared to spare Cuba from the continuation of the horrors of war if the United States" was, and wished to learn "from the President of the United States upon what basis might be established a political status in Cuba and might be terminated a strife which would continue without reason should both Governments agree upon the means of pacifying the island."

Eight days later, on July 30, Secretary Day made known the terms of the United States after summarizing the issues that had led to the war. These terms, with a few verbal changes, were exactly what were incorporated in a protocol signed by Day and Ambassador Cambon, acting for Spain, on August 12. They included (1) Spanish relinquishment of all claim of sovereignty over Cuba, (2) cession to the United States of Porto Rico and other Spanish islands in the West Indies, (3) American occupation of Manila "pending the conclusion of a treaty of peace which shall determine the control, disposition and government of the Philippines," (4) immediate evacuation of Cuba and Porto Rico, (5) provision for the appointment of commissioners to meet in Paris not later than October 1 to draw up the definitive treaty, and (6) immediate suspension of hostilities.

The Duke de Almodóvar, faced with the inevitable, agreed to the terms, but appended to the acceptance of the Philippine statement a declaration that the "temporary occupation" of Manila constituted a guaranty, not a cession of Spanish sovereignty; the status of the islands remained to be fixed in the final peace negotiations.

CHAPTER XII

THE END OF JUDGE DAY'S TENURE

WHILE the exciting events leading to the war were taking place and during the conflict itself, the Department of State carried on its customary routine functions. A reciprocal commercial agreement with France and its interpretation, German restrictions on the importation of American fruits, immigration questions as they affected Italy, and similar issues were provocative of much correspondence, which was efficiently handled under the direction of the two able assistant secretaries. No real issue involving the settling of a policy came forward to engage much of the attention of Secretary Day. Over in the Orient, Russia's lease and occupation of Port Arthur had aroused some interest, following as it did close upon Germany's occupation of Kiaochow; but, with assurance that American treaty rights obtained from China would be observed in the leased district, there was little disposition to prod deeply. Nor did Great Britain's occupation of Mir's Bay with its islands, in the vicinity of Hong Kong, stimulate much attention. The Russian Tsar's invitation to the Government of the United States to take part in a peace conference was telegraphed from St. Petersburg on August 25, 1898, and one of his last acts as Secretary was performed by Judge Day when, on September 12, he accepted the invitation for his Government.

In the course of the war the trend of public opinion and the reaction of governments in Latin-American

countries were closely followed. In some of these states, notably in Venezuela, an attitude distinctly unfriendly to the United States was evinced by the press and by the public generally. Less marked, a similar tone underlay dispatches that arrived from other Spanish-American countries, but nothing rose to the surface sufficiently to cause anything more than watchfulness.

With the conclusion of the peace protocol Day could feel that his presence in the Department of State could soon be dispensed with. He had never had any predilection for the office and was willing to surrender it when he could do so without embarrassment to the President. His services in a diplomatic capacity, however, had to be requisitioned once more when he was appointed to head the American delegation for the Paris peace conference. The account of the activities of this commission, which received formal instructions on September 18 and was in Paris ready to meet the Spanish commissioners twelve days later, belongs to the sketch in this series dealing with Colonel John Hay, who was recalled from London to assume the duties Day relinquished.

When the Treaty of Paris was framed and the commission returned to the United States, Day established himself once more in his law practice, but his retirement from public life was short. In 1899 President McKinley appointed him to the bench of the sixth judicial circuit to fill the place vacated by William Howard Taft. Within three years President Roosevelt nominated him Associate Justice of the Supreme Court of the United States, and this position Day held till he retired, on November 14, 1922.

His colleagues on the bench recognized the breadth

and depth of Justice Day's learning and he was frequently called upon to write the opinion of the court in cases of unusual intricacy or difficulty; among the more important opinions that he formulated were those in the United Shoe Machinery case and the Southern-Central Pacific case. His colleagues also recognized and appreciated his quiet humour. No doubt they likewise appreciated his ardent following of baseball; his enthusiasm over this sport was so great that he had sent to him when on the bench and in chambers telegrams recording the progress of the games in the world's series, and these he would read to his associates in the midst of their solemn deliberations.

When President Harding was requested by the German Government to designate an umpire for the Mixed Claims Commission, United States and Germany, for adjudicating claims of United States citizens against the German Government, arising out of war-time acts, the President selected Justice Day for this post and appointed him, on August 19, 1922. It so happened that Day was never called upon to pass upon any of the cases that came before the commission, for his position as umpire demanded his services only when there was a disagreement among the members of the commission itself. Before such a case arose, he had resigned.

In 1920 Day's constitution was greatly weakened by pneumonia. As his physician said at the time of his death, Justice Day had been "living on his nerve" for several years, and it was only his sense of duty to the public that kept him in the harness so long. The condition of his health, however, forced his retirement from the Supreme Court. A few months later, on May 15,

1923, he gave up his position as umpire of the Mixed Claims Commission. That summer he went, as he had for more than forty years, to Mackinac Island, but his health did not improve and he died on July 9, 1923.

Few of the Secretaries of State present a more difficult task of evaluation. The foregoing narrative has brought out the fact that Day never had any aspirations towards a diplomatic career or for a political one in the ordinary sense of the word. It was his deep friendship for President McKinley that took him to Washington in the first place, and the same friendship plus a sense of imperative duty at a critical time that made him become Secretary in name as well as in fact. Almost wholly ignorant of the routine of the Department and with no especial equipment for diplomatic work, he took to his task an amazing tact and much ability, so that the combination served him in the stead of such diplomatic training as his successor, John Hay, had received.

No opportunity was given him to block out a policy; the problems with which he had to deal were already cut out for him, so that in no major way was he in a position to strike out on a new path or enunciate a doctrine of marked significance. His personal influence with President McKinley was very great, and no doubt in a quiet and unassuming way he helped to guide the thoughts of his chief; his scepticism about a peaceful Cuban solution, and his belief that the United States should retain the Philippines, unquestionably had much weight with the President. On the other hand, it does not seem possible to show that the course of events was markedly affected by Secretary Day. His brief tenure of office, in one of the most critical periods of recent American

development, was characterized by an exhibition of solid common sense, tact, and broad understanding; he was a "shirt-sleeve" diplomat in the best sense of the term. His career as Secretary cannot be called brilliant, nor was it guided by an intimate knowledge of world politics in the broader sense. Whether this was a detriment or an advantage is a question that lends itself to discussion.

JOHN HAY

SECRETARY OF STATE

SEPTEMBER 30, 1898, TO JULY 1, 1905

BY

A. L. P. DENNIS, PH. D.

PROFESSOR OF MODERN HISTORY

CLARK UNIVERSITY

JOHN HAY

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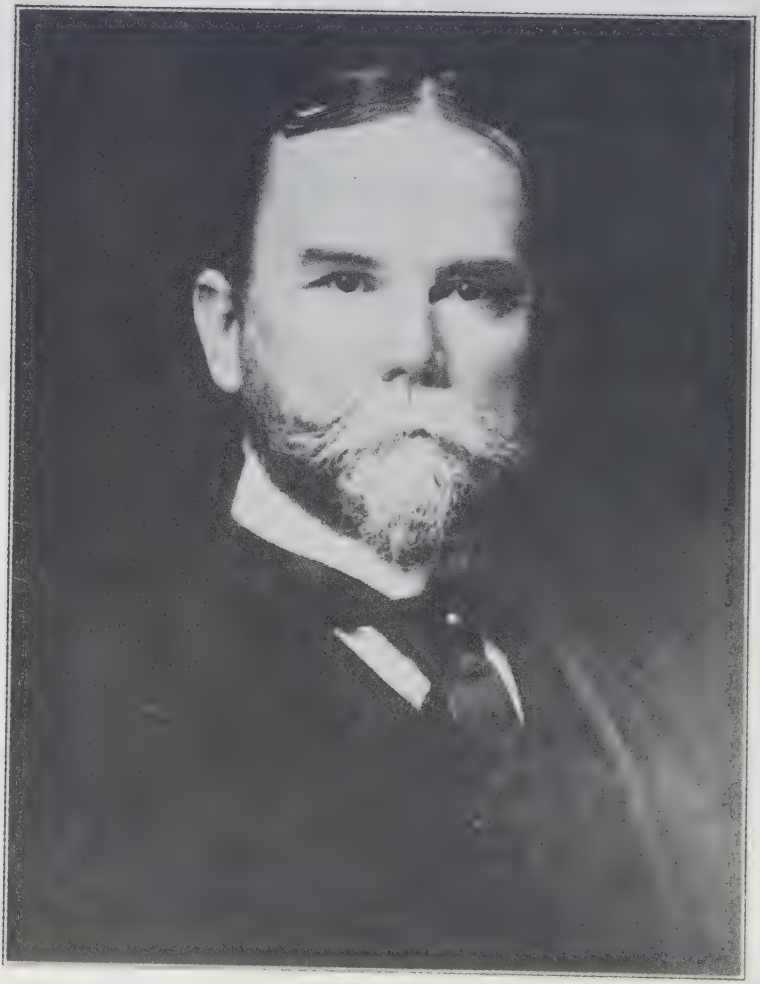


John Hay

JOHN HAY

CHAPTER I

AMBASSADOR AND SECRETARY OF STATE

JOHN HAY was born on October 8, 1838, at Salem, Indiana, the son of Dr. Charles Hay and of Helen Leonard Hay. On his mother's side he was of "pure New England stock," which had adventured from England to Massachusetts during the seventeenth century; his father's family was of Scotch origin. As a soldier, serving in central Europe in the army of the Elector Palatine, the direct ancestor of John Hay had four sons. One of these, Adam, reached America and settled in Berkeley County, Virginia. Thence his son, John, crossed the mountains to Kentucky and later moved north to Illinois. Of his many children, Charles was trained as a physician and settled first in Indiana, at Salem; but in 1841 he moved westward to Warsaw, Illinois, where his young family took root. I suppose Warsaw was an *alias* for Spunky Point, which John Hay always claimed as the place of his boyhood home. I think that he was justified in saying that his home was at Spunky Point; certainly, that name had an American twang.

The education of John Hay, who was the scholar of the family, was first in such small schools as the conditions of pioneer life afforded, later at a college in Springfield,

Illinois, and finally at Brown University, in Rhode Island. There he took his degree in 1858. Hay dreaded the return to the "barbarous west"; and there followed the period of the "poet in exile," who under the "duress of necessity" finally embarked on "the worldly profession of the law." Soon, however, in the burning politics of the time there came opportunity. Nicolay, a friend of his youth, became private secretary to the newly-chosen President; and Lincoln consented that young Hay should come to Washington as assistant private secretary.

Hay was twenty-seven when the Civil War ended. He had had the opportunity of serving day and night with one of the most sincere men in American history. Out of the dynamic experience of life with Lincoln, Hay came unspoiled. There followed a few years in the diplomatic service, the experiments of journalism, and the success of authorship. In 1874 he married Miss Clara Stone, of Cleveland, Ohio, the daughter of wealthy parents. Now for the first time Hay was really free to do as he wished—to write and to travel. His wife, who understood him well, brought him happiness and cheer, and his work, at times exhausting, was enlivened by the affection of friends. In 1890 the task of writing, in co-operation with Nicolay, a history of the Lincoln period was completed; yet Hay through all that toil still retained, as Thayer says, "the amateur spirit." The "quality of casualness" still rested with him, though underneath the surface there was a desperate devotion to truth, the moral sternness of his Scotch ancestry, and a rare love of beauty.[1]

Hay was reserved in manner, nervous yet sanguine

in disposition, given to long periods of despondency, and emotional by temperament. His appreciation of beauty of every form, and his whimsical gifts as a poet, gave to his friendships a touch of spiritual power. He had travelled widely; he was known as a man of letters; he was an aristocrat who could flame into anger at a wrong done to someone else; and he had a facile pen, which he employed with distinction. But he had not had the political hold that could bring him to places of permanent importance until finally in the nineties his friendship with McKinley, who was then Governor of Ohio, seemed to hold out the possibility of preferment of a high order. With the election of McKinley to the Presidency there followed naturally the appointment of Hay as ambassador to Great Britain. This office he took in the spring of 1897; in August of 1898 he was called home to be Secretary of State. Men recalled his arduous service under Lincoln, and the glamour of those days of national distress and final victory gave to Hay's appointment a special interest. His later services and the significant questions that he helped to solve combine to render the next seven years, during which he was to act as Secretary of State, a momentous period in the history of American diplomacy.

On a sheet of note-paper, which is still preserved among the Hay Papers, Hay wrote his cable message to President McKinley accepting the offer to become Secretary of State. On the opposite page, in pencil, is written his refusal to accept this high office. That refusal read: "It would have been the dearest wish of my heart to be associated with you in that way, but my health will not permit it." The ciphered cable of

acceptance was finally sent. Yet in the second and uncabled message the difficulty of health was mentioned. That difficulty was frequently to confront Hay in the years to come. Time and again he was housed by severe colds, by small illnesses of various sorts, by sheer nervous fatigue and exhaustion. His very vacations at times did not seem to benefit him. Perhaps he exaggerated some of these minor ills that afflicted him; but in 1905 he grew older rapidly. A trip abroad to the baths at Nauheim was of benefit; and on his return to America in June he insisted on coming down to Washington, where he tried to attend to business. He was too feeble and still too tired for such a strain. Going back to his summer home at Newbury, New Hampshire, he quickly died, on July 1, 1905.

Hay's brain was always clear; and in curious self-criticism he had written to his brother-in-law in 1902: "I really believe that in all history I never read of a man who has had so much and such varied success as I have had, with so little ability and yet so little power of sustained industry. It is not a thing to be proud of, but it is something to be grateful for."[2] Later, in June of 1905, a fortnight before he died, he wrote: "I say to myself that I should not rebel at the thought of my life ending at this time. I have lived to be old, something I never expected in my youth. I have had many blessings, domestic happiness being the greatest of all. I have lived my life. I have had success beyond all the dreams of my boyhood. My name is printed in the journals of the world without descriptive qualification, which may, I suppose, be called fame. By mere length of service I shall occupy a modest place in the history

of my time. If I were to live several years more I should probably add nothing to my existing reputation; while I could not reasonably expect any further enjoyment of life, such as falls to the lot of old men in sound health. I know death is the common lot, and that what is universal ought not to be deemed a misfortune; and yet —instead of confronting it with dignity and philosophy I cling instinctively to life, as eagerly as if I had not had my chance at happiness and gained nearly all the great prizes."[3]

Some of these prizes Hay had won because of his ability to draw to himself the art and capacities of men with whom he served. His courage and sagacity, his love of truth, and his impetuosity at times gave form to ideas that had been tentatively launched by others. But when he talked of resignation, President Roosevelt would not hear of it. At the time of his inauguration the President wrote to Hay: "I wonder if you have any idea what your strength and wisdom and sympathy, what the guidance you have given me and the mere delight in your companionship have meant to me in these three and a half years."[4] At times the vigour of President Roosevelt would chafe at the ill health of his chief Secretary. His robustious nature would be impatient at the unaccustomed caution of the older man. But there can be no question of the sincerity and devotion that marked the happy friendship of the two men.

The contact of Hay with President McKinley was no less cordial. Many letters testify to the warmth and mutual respect of their personal relations. President McKinley was a skilful American politician; his horizon

towards the foreign world was clouded by his ignorance of actual conditions and policies. He relied, therefore, on Hay to a greater degree than did President Roosevelt. Hay had travelled; he had many friends abroad; he was a "literary chap" and could consequently handle the correspondence of the Government. Let Hay manage matters of diplomacy! That seemed to be the attitude of President McKinley.

Already within the first three months of Hay's ambassadorship President McKinley had written to him: "Your last letter to me was delightful as all your letters are. I do not need to be reassured that you are using untiring energy and tact to help along two of the administration's greatest efforts—Bimetalism and Bering Sea Negotiations—but the details which you present are interesting and instructive."[5] The course of Hay's negotiations regarding an international conference to promote the widespread adoption of bimetallism was, however, jealously guarded from the public. President McKinley endorsed a letter from Secretary Sherman suggesting the possibility of making public one of Hay's dispatches dealing with the matter: "I would not give it out in any form or channel." The truth was this great "effort" of the Administration was to meet with prompt defeat. Great Britain refused to co-operate. To Hay, who had loyally supported the plans of his chief, but who was a staunch "gold standard" man, the result could not have been but welcome.

The second "effort" of the Administration was likewise to be defeated for the time. Great Britain refused to attend a conference, to which Russia and Japan were invited and which met briefly in Washington in Octo-

ber 1897, to consider the situation of the seal herds in Bering Sea. American and British experts had previously differed as to the danger of extermination of the seals. The American verdict was that the situation was so serious as to require restriction if not prohibition of seal-hunters in the waters of Bering Sea. Hay's private comment on this result was: "I have been amazed at the solid way in which the Press of England has stood together around Lord Salisbury, and steadily refused to print the truth."[6] Perhaps the unfortunate publication in the American press of the text of an instruction from Secretary Sherman to Hay contributed to this result, for in that instruction charges of British bad faith were made. Naturally the British press had commented violently on this episode. Finally, however, the British in connexion with Canada agreed to "a Commission to settle sealing and other pending questions."

Such initial rebuffs, however, did not mar Hay's ambassadorship. His genial tact and the respect that the British soon accorded him made him an increasing factor in the troubled months of 1898. For the United States the outbreak of war with Spain was an event of prime importance. The old notion that America was isolated in its policies and had nothing to do with the European or Asiatic worlds was of course false. But Americans, themselves, did not know their own history and did not appreciate the importance of their relations with foreign governments. The Spanish-American War was to give opportunity for the development of a proper appreciation of such relations. In particular, it was essential that the friendship of Great Britain should be won. The personal qualities and courtesy of Hay made

him an ideal ambassador for that purpose. His own conviction was that "the interests of civilization are bound up in the direction the relations of England and America are to take in the next few months."[7] To the promotion of a good understanding between the two countries Hay now set himself.

The general situation in China was of concern to both the United States and Great Britain, and the discussions regarding the condition of that unfortunate country gave Hay an admirable opportunity to receive impressions as to British policy and to discover how far it might agree with the ideas that were slowly taking shape in his own mind. Suddenly, however, while Hay was in Egypt on leave, the British sounded Secretary Sherman through Sir Julian Pauncefote, British ambassador in Washington. By a confidential and unofficial memorandum of March 8, 1898, the British Government inquired whether it could count on "the coöperation of the United States in opposing action by foreign Powers which may tend to restrict freedom of commerce of all nations in China either by imposing preferential conditions or by obtaining actual cession of Chinese coast territory." Secretary Sherman returned a cool answer and referred to American "traditional policy of respecting foreign alliances and so far as practicable avoiding interference or connection with European complications."[8] Thus the first step in developing a common policy failed, but it came from the British side.

British opinion, however, was rapidly taking sides regarding the impending conflict as to Cuba. Hay noted on April 1 that "there is now an almost universal hope that the United States will take such measures as may

be necessary to bring peace to Cuba." He wrote to Senator Lodge that the "drawing room" sentiment was altogether pro-American and that "if we wanted it—which, of course, we do not, we could have the practical assistance of the British Navy,—on the *do ut des* principle naturally." Mr. Balfour said that the British Government did not "propose to take any steps which would not be acceptable to the Government of the United States." Thus both popular and official opinion in England was solidly on the American side during the war with Spain. To this result Hay and his staff contributed much.

During the summer of 1898 Hay was repeatedly consulted by the Government in Washington as to terms of peace and as to the state of European opinion. Reports were current that Germany was consulting several of the powers as to the inadvisability of permitting the United States to retain a foothold in the Philippines. It was consequently encouraging to learn that the British had declined a Spanish proposal that Great Britain should take possession of Manila in order to prevent its possible destruction by American forces. Indeed, there seems to have been some fear on the part of Germany lest the relations of the United States and Great Britain were drawing too close. This Secretary Day sought to dissipate by telegraphing to Berlin: "Nothing in the relations of the United States and Great Britain need give any ground for apprehension on the part of the Continental Powers." Such rumours and fears, however, were not without a certain basis of fact as regards Great Britain, for on May 13 Mr. Joseph Chamberlain had said publicly: "I even go so far as to say that,

terrible as war may be, even war itself would be cheaply purchased if, in a great and noble cause, the Stars and Stripes and the Union Jack should wave together over an Anglo-Saxon alliance."

Nor so far as Germany was concerned was the situation *couleur de rose*. Hay wrote: "The jealousy and animosity felt toward us in Germany is something which can hardly be exaggerated—*pace* Dr. White [American ambassador in Berlin]. They hate us in France but French hate is as straw fire compared to Germany. And France has nothing to fear from us while the Vaterland is all on fire with greed and terror of us. They want the Philippines, the Carolines, and Samoa; they want to get into our markets and keep us out of theirs. They have been flirting and intriguing with Spain ever since the war began and now they are trying to put the Devil into the head of Aguinaldo. I do not think they want to fight. In fact they frankly tell me they can't. Hatzfeldt [German ambassador in London] said the other day, 'We cannot remove our fleet from German waters.' But they want by pressure, by threats, and by sulking and wheedling in turn to get something out of us and Spain. There is to the German mind, something monstrous in the thought that a war should take place anywhere and they not profit by it."[9] Such were the views of German policy encouraged by Cecil Spring-Rice, later to be British ambassador at Washington, who was during this summer to be a special friend of Hay.

Hay, however, was not in favour at this time of the purchase of the Philippines by the United States. He reported that the British Government would prefer to have the United States retain them, "or, failing that

insist on option in case of future sale." He favoured the terms originally outlined in a confidential cablegram of June by President McKinley, which proposed the cession of a port in the Philippines to the United States. Hay added in July the suggestion that "a strong guarantee of fair treatment of the natives" in the Philippines, and a "prohibition of the lease or alienation of any portion of the islands without our approval," should also be secured in the coming negotiations with Spain.

While these messages were flying back and forth, came the unexpected summons from the President. Hay was reluctantly forced to accept the call to become Secretary of State. The message was dated August 13. He was to qualify in Washington by September 18 and actually did so on September 30, 1898. Almost the last dispatch Hay wrote from London was on September 13, noting with some satisfaction that at the saluting-point of the march past in connexion with the recent British army manœuvres on Salisbury Plain the "American flag was side by side with the British Royal Standard, the Union Jack, and the White Naval Ensign upon the principal marquee." Thus Hay came home, honoured in England, to find that in America the very friendship and good understanding with Great Britain which he had so laboured to promote was the chief ground for a bitter attack on him. This attack was to chafe him sorely during his first few years of office.

Such annoyances did not prevent Hay from plunging at once into the varied matters which awaited his attention. Chief among these was the decision regarding the terms of peace with Spain. The general instructions to the American peace commissioners had been drafted

while Hay was saying good-bye in England. The final decision to retain the Philippines may have been made by President McKinley; but it was supported heartily by Hay. One of the reasons which may have prompted that decision lay in the contents of a note from Japan dated September 8, 1898. The Japanese Government recognized to the full that "the decision regarding the future of those islands [the Philippines] rests with the United States." Spain was "incapable of suppressing the present Philippine insurrection or even of maintaining peace and order." A native government "would be dominated by intrigue and disorder" and would "fall an easy prey to the aggressive tendencies of other Powers." Japan had interests in the maintenance of peace in the Far East and would be entirely satisfied if the United States alone should assume the task of government in the Philippines. If the United States "should feel disinclined to undertake alone" the administration of the islands, Japan "would be willing to join with the United States, either singly or in conjunction with another Power having identical interests, in the endeavor to form, subject to proper conditions, a suitable government for the territory in question under the joint or tripartite protection of the guaranteeing powers."

Such a suggestion may well have quickened official opinion to an appreciation of the awkward situation if the United States did not assume full responsibility for the islands. It was clear that if we did not undertake such responsibility, Germany had every intention of establishing a footing there; the result might well be a situation in which the United States would feel compelled to take a part. At all events, the decision was

made, and within a short time friction developed with Aguinaldo, the insurgent leader in the Philippines. As Adee wrote on December 30, 1898: "Since the treaty of peace was signed, Aguinaldo is virtually at war with the United States. . . . I strongly favor immediate coercive action against Aguinaldo as a disturber of *our* peace." Thus one aspect of our policy was decided; and the printed record of the instructions sent to the American peace commissioners at Paris, during October and November, gives clear evidence of the hand of Hay. He had changed his views from those of the previous June, as had the President. The United States was now committed to the exercise of sovereignty in the Philippines. As Lord Salisbury had said on November 9, 1898, the appearance of the United States "among the factors of Asiatic and possibly of European diplomacy is a grave and serious event." On the ratification of the treaty of peace Governor Roosevelt wrote from Albany to Hay: "Just a few lines to congratulate you on bringing to so successful an end so great a work. Ambassador and Secretary of State during the most important year this Republic has seen since Lincoln died—these are positions worth filling, fraught with memories your children's children will recall with eager pride. You have indeed led a life eminently worth filling oh! writer of books and doer of deeds!"

Meanwhile the commission appointed to settle outstanding Anglo-American questions was encountering rough weather. Mr. Chamberlain in London had inquired privately as to the causes of the hitch. Hay responded through Mr. Henry White that in the case of the Alaska boundary dispute "it is hard to treat

with patience the claim set up by Lord Herschell [British commissioner] that virtually the whole coast belongs to England, leaving us only a few jutting promontories without communication with each other. . . .We are absolutely driven to the conclusion that Lord Herschell put forward a claim that he had no belief or confidence in, for the mere purpose of trading it off for something substantial. And yet, the slightest suggestion that his claim is unjust throws him into a fury." There were a dozen questions involved before this commission, which was sitting in Washington, but "Lord Herschell insists on making his point on the Alaskan boundary even at the risk of all the rest." Furthermore, Hay had already, in early December, directed Mr. Henry White, in London, to sound the British Government as to the modification of the Clayton-Bulwer Treaty so as to permit the United States to undertake the construction of an Atlantic-Pacific canal. The preliminary responses had been favourable if the canal was to be "open to the ships of all countries on equal terms." Now, however, the British were inclined to trade their consent to the abrogation of the Clayton-Bulwer Treaty for American concessions in the disputes with Canada. Thus Hay wrote on February 14, 1899: "I think it deplorable that the British Government" should insist on this. "The two questions have nothing to do with each other; . . . it is hard to see why the settlement of the [canal] matter ought to depend on the lumber duty or the Alaska boundary."[10]

Matters were thus at a standstill in February 1899. In March Lord Herschell died; and in April Hay tried to provide a way out of the dead-lock. He proposed a

treaty under which the Alaskan boundary should be determined by a "Commission of jurists of repute, composed of an equal number appointed by each Government, and that the decision of a majority of these should be accepted by the two Governments." The United States was unwilling to accept arbitration, because of the chances of compromise in a case that the Americans felt should be rightfully decided in accordance with American claims. Lord Salisbury promptly pointed out that Canada must be consulted; and throughout the summer every detail of the negotiations was of necessity referred from the British Foreign Office to the Colonial Office, which in turn consulted with Canada. Thence an identical return route was followed with the result of almost interminable delay.

In May Sir Julian Pauncefote, British ambassador at Washington, was in London and he and Mr. Choate, who had succeeded Hay as American ambassador to Great Britain, undertook the details of settlement. Whereupon Canada objected. Even Choate commented that "this Canadian intervention sometimes makes" it seem as though an amicable issue was somewhat distant. Yet frequent complaints from American officials in Alaska as to local disputes and difficulties made a *modus vivendi* imperative. The danger of clashes between rival American and Canadian groups of miners was very real. Consequently Hay proposed that a provisional boundary line should be fixed without prejudice to future settlement. To this the British Government was ready to agree, but Canada again "raised new points for consideration and discussion." One difficulty was, of course, that the maps of the regions in dispute were often not

entirely accurate or were not available to Mr. Choate. On July 6, 1898, Hay cabled to Mr. Choate that excitement was increasing along the frontier. "I do not wish you to assume tone of ultimatum, but British Government should understand that we cannot recede from our line" as already proposed. On October 20, 1898, this line was agreed on substantially as Hay had drawn it.

Such matters had worn on the Secretary during the summer. He wrote to Senator Davis that to drop the question would mean a great deal. "We have twelve questions, mostly Canadian—to settle with England. None of them will be settled until this one is. The Clayton-Bulwer arrangement also goes by the board. We shall be left in a state of dull hostility, varied by commercial reprisals. The friendship between the two countries, of which nobody has spoken so wisely and eloquently as you have—will prove short-lived and derisory. It was a great blunder of Sir Wilfred Laurier to talk about war. Of course what he meant was that war was impossible and therefore we must have arbitration. But the word, War, should never be used except by philanthropists and soldiers. It is positively indecent in the mouth of a diplomatist."

The Alaskan boundary and the Clayton-Bulwer Treaty were to plague Hay for many months to come. Meanwhile the settlement of Samoan matters with Great Britain and Germany, the formulation of the doctrine of the "open door," and the involution of Chinese politics leading to the Boxer revolt were all to occupy his attention. At the end of a year after his summons to be Secretary of State, Hay wrote frankly that his health was bearing up well; but "it is impossible to exaggerate the

petty worries and cares which, added to the really important matters, make the office of Secretary of State almost intolerable. The unrestricted freedom of access which members of Congress and especially senators insist upon; the venomous greed with which they demand and quarrel over every scrap of patronage that falls in, the clamor of private claimants and their attorneys, for pressure to be applied to poverty-stricken dago-states who may or may not owe them money; all of these things, which are outside my legitimate work, would take every hour of my day if allowed. . . . The worst of all is the uncertainty about what the Senate may do in any given case. You may work for months over a treaty, and at last get everything satisfactorily arranged, and send it to the Senate, where it is met by every man who wants to get a political advantage or to satisfy a personal grudge, everyone who has asked for an office and not got it, everyone whose wife thinks mine has not been attentive enough—and if they can muster one third of the Senate and one, your treaty is lost without any reference to its merits. . . . So summing up my year at the head of the Cabinet I may say that while I have got on fully as well as I imagined, the annoyances have also been precisely what I expected—and there has hardly been an hour of real enjoyment the whole year."[11]

CHAPTER II

SAMOA, THE OPEN DOOR, AND THE BOXER REVOLT

THE days of 1899 were crowded with events that sorely taxed the Secretary of State. Slowly, however, problem after problem was solved peaceably and on the whole successfully. One of these led to the final partition of the Samoan Islands among the governments that had been exercising a condominion there. The United States, Great Britain, and Germany had assumed this condominion in the attempt to end tribal wars and to protect their own citizens. The result was friction among the representatives of the powers. Finally, in April 1899, it was proposed to end a situation that was both undignified and dangerous. A commission was appointed to visit the islands and to agree on a settlement of the problem. The suggestion had come originally from Germany, but Hay had seized on it as a way out of the difficulty. The British Government finally drafted the proposal, and the Germans were emphatic in their expressions of pleasure to President McKinley and to Hay. Baron von Richthofen at Berlin "seemed anxious to convey to me [Ambassador White] the impression that Germany was even more desirous of working hand in hand with America in this matter than with Great Britain"; and the Emperor sent his personal thanks to the President. The result was that Mr. Tripp for the United States, Baron Speck von Sternberg for

Germany, and Mr. Eliot for Great Britain went out to Samoa, where they privately elaborated the plan of a partition. In the meantime the offending local officials in Samoa were one by one recalled by their respective governments.

The commission worked out a plan for the administration of the islands, but stated that in their opinion "the only natural and normal form of government for these islands, and the only system which can assure permanent prosperity and tranquility is a government by one power." This was impossible under the terms of the original agreement. Consequently Germany proposed a partition of the islands. Tutuila and its adjacent islets were to go to the United States; Great Britain and Germany were to divide the rest. Such a solution was welcomed by Hay. This finally was agreed to on November 14, 1899. The United States gained a fine harbour in Pago-Pago; and Germany lost a chance to include in the trade with Great Britain a bit of land in Africa and the possession of certain islands of the Gilbert and Solomon groups in the Pacific. The question of indemnities for losses endured by private citizens during the disturbances in Samoa was to be settled by the arbitration of the King of Norway and Sweden. Hay's comment on the whole matter was: "Our relations with Germany are perfectly civil and courteous. They are acting badly about our meats and cannot help bullying and swaggering. It is their nature. But we get on with them. We are on the best of terms about Samoa; Sternberg backed up Tripp in everything, so that, to our amazement, Germany and we arranged everything harmoniously." Later he wrote to Mr. Choate: "Germany,

it is true, has been excessively anxious to have the matter concluded before the Emperor's visit to England, and, in the intense anxiety, I am inclined to think that they have somewhat lost sight of their material interests in the case."

Such matters, however, were of small importance as compared with the formulation and adoption of the doctrine of the "open door" as applied to China. Here were involved not only the economic interests of untold millions of Chinese, but possibly their political future as well. The rivalries of European and Asiatic states impinged on ruthless spoliation and on war. The decadence of Chinese administration invited disaster for her political integrity. On all sides came the vultures to feast, as they thought, on the carcass of a moribund people. Soon these vultures would be fighting among themselves to determine their respective portions. Thus the scene was set for a veritable collapse of civilization unless some general agreement could be secured among the political adventurers who were gathering for plunder. Then it was that Hay succeeded in defining in fairly clear terms the American idea of the "open door" and won its acceptance in more or less grudging terms from the great European powers and from Japan.

Hay, of course, did not originate the idea of the "open door"; nor were its provisions entirely his own. He sponsored it and secured its acceptance at a critical moment in international relations, as regards China. It was at the time a temporary expedient; it was frequently violated thereafter; and it was never embodied in an American treaty until 1922. Yet in a popular sense Hay's fame as a diplomatist rests largely on the "open door";

and the average American thinks he is right in standing proudly for its principles as a doctrine laid down by Hay. The "open door" is little more Hay's doctrine than is the Monroe Doctrine really Monroe's. Such facts have long been familiar to close students of the matter. Now with fresh material, hitherto unpublished, it is possible to examine the situation anew.

China at this time was ruled by a foreign dynasty. The vigour and success that had marked the earlier history of these Manchu rulers were now exhausted. An experienced diplomatist in China wrote to his Government saying that the position of China was even more humiliating than it was after her easy defeat by Japan in 1894–1895. "It may, therefore, be said that the people of China would make no opposition to the partition of the Empire. They would welcome it, and would gladly transfer their allegiance to a European power. It is questionable, however, whether a partition would be for the benefit of the Western powers. Certainly England would lose by such absorption. She now controls the bulk of the trade with China, and under prohibitive duties and a restrictive policy she would undoubtedly lose much of it." The seizure of Kiaochow in Shantung by Germany, in November 1897, was a sign of the times. Soon Russia was likewise to force a lease of Port Arthur and Talienwan. Japan held Wei-hai-wei until the indemnity due her from China after the war was paid. France compelled an addition to the territory already held by her in the south. The British had gained an extension by lease of territory on the mainland near their island colony of Hong Kong. Soon Italy was to attempt a foothold, which China was to block, yet the scramble for territory and

concessions seemed to be in full swing. Small wonder that Lord Charles Beresford, who undertook a commercial mission for the British Associated Chambers of Commerce in 1898, called his bulky report "The Break-Up of China."

Already official speakers in Great Britain had declared that the Government was prepared, even at the cost of war, to maintain British commercial interests in China. Chamberlain said that the British purpose was "not the acquisition of new territory but the maintenance of free markets." In this connexion there was the question of whether Germany intended to follow an exclusive policy as to trade in Shantung or whether that region was to continue to be open to the trade of the world. Other questions of loans to China and of railway concessions were soon involved. Under such circumstances Minister Denby at Peking had written to Secretary Sherman as follows:

> "While preserving all the sanctity of the [Washington] 'Farewell Address,' it is worth enquiring whether there is not some middle ground on which we may stand with advantage. Our interests in China are considerable. We have fifteen hundred missionaries here. . . . These missionaries are entitled to our protection just the same as mercantile people are. Partition [of China] would tend to destroy our markets. The Pacific Ocean is destined to bear on its bosom a larger commerce than the Atlantic. . . . Here are diverse and varied sources of interest in the Far East which directly touch us. . . . We have a certain moral influence in the affairs of the World, and in my opinion,

that influence should be exerted in all cases in which our interests demand its exercise. . . . We should not hesitate, also, I think, to announce our disapproval of acts of brazen wrong, and spoliation, perpetrated by other nations towards China—should any occur."[12]

On March 1, 1898, the British House of Commons voted without division: "that it is of vital importance for British Commerce and Influence that the independence of Chinese territory should be maintained." On March 8, as we have already noted, an attempt was made to sound out the Department of State regarding American policy as to China. This attempt to draw the United States into a joint declaration in support of the policy of the "open door" was at the time unsuccessful. Hay reported on March 25 that the British "seem to think there is an understanding between Russia, France, and Germany to exclude as far as possible, the trade of England and America from the Far East, and to divide and reduce China to a system of tributary provinces."[13] Towards the end of 1898 Lord Charles Beresford wrote to Hay, who was now Secretary of State: "As America has got over 50% of the import trade into the north of China, it is imperative for American interests as well as our own, that the policy of the 'Open Door' should be maintained. I have every hope that in the near future the suggested commercial Alliance between Great Britain and America with reference to the 'Open Door' in China may become an absolute fact."[14]

Much of Beresford's plan for the rehabilitation of China was unacceptable to the United States. But Hay was quick to see the desirability of showing that the

United States was alive to the danger of foreign aggression in China. His correspondence with Mr. Conger, who was now American minister at Peking, indicates that. Indeed, there were signs that there was a revival of the original policy of the United States towards China. This policy was defined by Secretary Webster in 1843 as requiring China not to grant greater privileges or commercial facilities to the subjects of any other government than were granted to American citizens. Thus in the notes dealing with the policy of the "open door," which were to be sent in the latter part of 1899, Hay followed the traditional policy of the United States. He received definite stimulus to this end by the overtures of Great Britain and of the British, and, as we shall see, the actual formulation of the doctrine was in part due to a memorandum drawn up, at Hay's request, by Mr. W. W. Rockhill on August 28, 1899.

Mr. Rockhill, who was at this time director of the Pan-American Union at Washington, but who was also a welcome unofficial expert on Far Eastern affairs for the Department of State, was regarded by Hay as one of the two ablest Americans in diplomatic matters. Mr. Henry White, at London, was the other. But Mr. Rockhill had an originality and a constructive ability that were significant. In this memorandum, from which only excerpts can be quoted, Mr. Rockhill argued as follows:

> "To sum up then, we find today in China that the policy of the 'Open Door,' the untrammeled exercise of the rights insured to Treaty Powers by the Treaty of Tientsin, and other treaties copied on it or under the most favoured nation clause, is claimed by the

mercantile classes of the United States and other powers as essential to the healthy extension of trade in China. We see, on the other hand, that the political interests and the geographical relations of Great Britain, Russia, and France to China have forced those countries to divide up China proper into areas or spheres of interest (or influence) in which they enjoy special rights and privileges, the ultimate scope of which is not yet determined, and that at the same time Great Britain, in its desire not to sacrifice entirely its mercantile interests, is also endeavoring to preserve some of the undoubted benefits of the 'open door' policy, but 'spheres of influence' *are an accomplished fact*, this cannot be too much insisted upon. (This policy is outlined by Mr. Balfour in his Manchester speech of January 10, 1898.)

"Such being the condition of things, and in view of the probability of complications soon arising between the interested powers in China, whereby it will become difficult, if not impossible, for the United States to retain the rights guaranteed them by treaties with China, what should be our immediate policy? To this question there can, it seems, be but one answer, we should at once initiate negotiations to obtain from those powers who have acquired zones of interest in China formal assurance that (1.) they will in no way interfere within their so-called spheres of interest with any treaty port or with vested rights in it of any nature; (2.) that all ports they may open in their respective spheres shall either be free ports, or that the Chinese treaty tariff at the time in force shall apply to all merchandise landed or shipped, no matter to

what nationality belonging, and that the dues and duties provided for by treaty shall be collected by the Chinese Government; and (3.) that they will levy no higher harbor dues on vessels of other nationalities frequenting their ports in such spheres than shall be levied on their national vessels, and that they will also levy no higher railroad charges on merchandise belonging to or destined for subjects of other powers transported through their spheres than shall be levied on similar merchandise belonging to its own nationality.

"In other words, we should insist on absolute equality of treatment in the various zones, for equality of opportunity with the citizens of the favored powers we cannot hope to have, in view of the well known method now in vogue for securing privileges and concessions, though we should continually, by every proper means, seek to gain this also.

"Such understandings with the various Powers, and it is confidently believed that they could be reached at present, would secure an open market throughout China for our trade on terms of equality with all other foreigners, and would further remove dangerous sources of irritation and possible conflict between the contending powers, greatly tending to re-establish confidence, and prepare the way for concerted action by the Powers to bring about the reforms in Chinese administration and the strengthening of the Imperial Government, recognized on all sides as essential to the maintenance of peace."[15]

On September 6, 1899, just ten days after this Rockhill memorandum was dispatched from New York to

Washington, Hay started his notes to France, Germany, Great Britain, and Russia. Similar notes were addressed to Japan on November 13, and to Italy on November 17. The note to Mr. Choate in London read in part as follows. It was proposed as American policy that the "open door" as regards China should be maintained and Great Britain was invited to declare substantially:

> "First. That it will in no wise interfere with any treaty port or any vested interest within any so-called 'sphere of interest' or leased territory it may have in China. Second. That the Chinese treaty tariff of the time being shall apply to all merchandise landed or shipped to all such ports as are within said 'sphere of interest' (unless they be 'free ports'), no matter to what nationality it may belong, and that duties so leviable shall be collected by the Chinese Government. Third. That it will levy no higher harbor dues on vessels of another nationality frequenting any port in such 'sphere' than shall be levied on vessels of its own nationality, and no higher railroad charges over lines built, controlled, or operated within its 'sphere' on merchandise belonging to citizens or subjects of other nationalities transported through such 'sphere' than shall be levied on similar merchandise belonging to its own nationals transported over equal distances."[16]

To this note Mr. Choate promptly cabled that Lord Salisbury was in full sympathy with Hay's proposals as to China and thought that it was an excellent move. Later, on October 14, Lord Salisbury replied that in view of the fact that territory recently leased near Hong Kong

was "an integral part of the colony" and that it stood on a "wholly different footing from a 'sphere of interest,'" he believed that "all mention of leased territory should be omitted from the proposed Declaration, which should be confined to spheres of interest."[17] This difficulty was finally avoided by omitting all specific mention of the leased territory now administered as a part of Hong Kong and by including expressly the territory of Wei-hai-wei and all spheres of interest now belonging to Great Britain and all portions of Chinese territory that might hereafter be leased by Great Britain. Thus no room would be given to any other exceptions that might be urged by other powers, and no further extension of leases might be permitted that would not be subject to the proposed statement of policy.

It is impossible at present to follow the various steps in regard to the adoption of the "open door" policy by the other powers. Great Britain had been sceptical as to the adhesion of the other European states, and her consent was conditioned by the acceptance of the "open door" policy by their governments. Germany, France, Italy, and Japan did, however, accede to the proposal one by one. Thus Russia was the doubtful quantity. Count Muraviev had already said that Russia would do what France did, but later was inclined to modify his statement. Indeed he "flew into a passion," protesting that Russia never would bind itself in that fashion. A note dated December 30, 1899, and published in *Foreign Relations of the United States, 1899*, was the only written statement that Muraviev would make. Of this note, however, Count Cassini, Russian ambassador in Washington, wrote to Hay that he "had every reason to believe

that this response [Muraviev's note] is of a nature to satisfy you entirely." Cassini continued: "The response of the Imperial Government, precise, clear, and loyal, promises what it wishes and can maintain and the profound desire of Russia is sincerely to do all that is possible to cement the cordial relations which exist between our two countries."[18]

The response, however, did not go quite so far as Hay wished, yet he was careful not to risk a further rebuff by pressing the matter too keenly and decided to take the Russian reply as an acceptance of his original proposal and so announced it to the world. There was of course a chance that Russia might object. As he wrote to Mr. Henry White, if the Russians "choose to take a stand in opposition to the entire civilized world, we shall then make up our minds what to do about it. At present I am not bothering much." As Ambassador Tower in St. Petersburg wrote to Hay on February 12, 1900: "The truth is, that the Russian Government did not wish to answer your propositions at all. It did so finally with great reluctance, but it did so because of the desire upon its part to maintain the relations subsisting between the two countries, which it would not on any account disturb. It went a great way, as Russian diplomacy goes, when it put into writing the answer which you now have." Under the circumstances and in view of the adroit way in which Hay assumed the complete acceptance by Russia, which was so necessary to the completion of his diplomatic edifice, the congratulations of his predecessor in his office were welcome. Ex-Secretary Day wrote to Hay as follows: "'Peace hath her victories, no less renowned than War.' By moving at the right time and

in the right manner, you secured a diplomatic triumph in the 'open door in China' of the first importance to your country, and greatly to your personal credit and renown. Permit me to extend my warm congratulations."[19]

The negotiations relating to the "open door" were scarcely out of the way when the Boxer movement once more called the attention of the world to China. The Boxer rebellion was in reality a crude and cruel expression of Chinese nationalism seeking through bloodshed and torture to expel from China the threatening influence and aggression of all foreigners. It seemed hardly possible to many experts on Far Eastern affairs that such a movement could be popular in China or could be tolerated by the Manchu Court. Mr. Rockhill wrote to Hay, returning some dispatches from Peking: "I cannot believe that the 'Boxer' movement will be very long-lived or cause any serious complications. The day the Chinese authorities choose to put an end to it they can easily do so. I think they have now realized that they must act, and they will." Yet within three weeks the legations in Peking were besieged; communications with the outside world were cut off; and the Court party nominally in opposition to this rude outbreak was tacitly permitting outrages and attacks on foreigners in northern China.

Mr. Choate wrote from London that, after the relief of the legations, the chief danger would be that the United States would be drawn into the "schemes of the Continental Powers. The general desire here is that England should not be, so far as I can discover. But I cannot forget what Lord Salisbury once said to me in defining a 'sphere of influence,' that it was a sort of 'ear

mark' upon territory which in case of a break up England did not wish any other power to have."[20] With the purpose of localizing the disturbances in China, Great Britain and France joined the United States in stating that, as long as the local authorities in central and southern China maintained order and protected foreigners, no orders would be given foreign forces to attack in the provinces of these regions. At the same time the various powers made haste to try to secure the relief of the legations. Hay cabled to Minister Buck in Tokyo that twenty-five hundred American troops were bound for China. "Their duty will be act concurrently with the forces of other powers in the protection of the lives of American officials and other citizens and all American interests. They have no instructions on the subject of any political combinations or any scheme for the future Government of China."[21] Thus the Government acted promptly to try to provide for the security of the lives and property of American citizens in China.

A lengthy cable was sent to Mr. Choate, July 4, 1900, defining the purposes and policy of the United States. A similar note also was sent to other powers. This included the following statement: "The policy of the Government of the United States is to seek a solution which may bring about permanent safety and peace to China, preserve Chinese territorial and administrative entity, protect all rights guaranteed to friendly powers by treaty and international law, and safeguard for the world the principle of equal and impartial trade with all parts of the Chinese Empire." The fact that Japan, with the agreement of the powers, had dispatched a large expeditionary force to China was, however, soon the subject

of discussion among the chancelleries of the interested states; but it is impossible to detail these diplomatic exchanges at present.

The main question at the time was to relieve the legations and to ascertain whether the ministers at Peking had been massacred. Finally, in mid-July, a message was received from the Emperor of China and a mutilated cipher cable from Mr. Conger. This seemed to indicate that the ministers were alive on July 17; but Lord Salisbury threw doubt on the authenticity of both messages. Hay, however, was inclined to accept both messages as true. He wrote to President McKinley, on July 29, 1900, recounting a conversation with Wu-Ting-Fang, Chinese minister at Washington, in which the principal demand was that full and free communication should be established with the legations at Peking. Hay reported that Mr. Wu was "greatly perturbed in spirit, but seems to be acting squarely with us. He admits there are many things he can not explain. He does not attempt to account for the silence of the Legations, but believes the Ministers, except Ketteler [German minister at Peking], are alive."[22]

As the relieving forces made their way to Peking, the diplomatic element waited anxiously. Even Mr. Adee, who was usually so cheerful and serene, commented to Hay, who had left Washington for Newbury: "God! what a strain this suspense is!" Then he quickly added: "Don't worry." On August 16, Peking was entered by the combined forces, and the siege was over. The Court had meantime fled into the interior. The problem was to discover an authority in China with whom to negotiate. The German Government, for example, maintained

that there was no authoritative government in China. Mr. Rockhill had been sent to China by Hay as a commissioner to supplement Mr. Conger, the minister. But with whom was he to negotiate? Count von Waldersee of Germany had been accepted as commander of the foreign forces; but with whom was he to fight and where? Meantime foolish press-reporters had arranged a mare's nest to the effect that Hay had retired to the country because he disagreed with the policy of the Administration as to China; whereas he was kept in daily, almost hourly, touch with the Department of State by Mr. Adee, who acted as Hay's watch-dog and was ever efficient and adequate. Secretary Root jokingly commented on the nonsense that was clogging the press by writing to Hay: "How will you swap a murdered Old English alliance for a nice, new, clean Russian article painted yellow? I hope you take the frustration of your hellish designs with complacency and are recovering your appetite for New Hampshire farms. It appears that diplomacy as viewed from the opposition American stand point has but two phases. If we agree with any other power on any subject there is a secret alliance; if we disagree there is a conspiracy to get up a war and foster [foist?] a soldier on the back of every American laborer."[23]

The situation was serious enough, however, as can be gathered from a letter of September 14 from Hay to Mr. Adee: "The dilemma is clear enough. We want to get out at the earliest possible moment. We do not want to have the appearance of being forced out or frightened out, and we must not lose our proper influence in the final arrangements. . . . There is, therefore, not a

single power we can rely on, for our policy of abstention from plunder and the Open Door." Having marched to Peking the problem was how to get away and at the same time avoid the danger of appearing to scuttle out. The conclusion was to hold our forces for a little longer in Peking. Furthermore, the punishment of leading Chinese concerned in the Boxer movement was a difficult one. Mr. Adee saw the point when he wrote to Hay: "The devil of the matter is that Germany's proposal to demand the surrender of the criminal leaders to the Powers for punishment by the Powers upsets much of what we are doing and endeavoring to do. No Punishment can be effective toward a permanent settlement which is not decreed and carried out by the Emperor [of China]. For Waldersee to hang or shoot Tuan [a military leader] would make Tuan a demi-god to the Chinese. It is the Imperial degradation that tells—making the offender *anathema maranatha*."[24]

Finally Prince Ching and Earl Li Hung Chang were appointed plenipotentiaries on the part of the Emperor. Mr. Rockhill, for the United States, took over these negotiations for a settlement, which dragged interminably, while von Waldersee organized a punitive expedition to coerce the Chinese. In the negotiations Hay was of course most anxiously concerned, but to trace the details of such matters from the dispatches is not now feasible. Gradually, however, it was possible for the United States to reduce the demands of the powers to a common factor and to persuade the ministers at Peking that they must be satisfied with what was possible and obtainable. The Chinese Government finally accepted the terms for punishment, the payment of an indemnity, and the amend-

ment of existing treaties of commerce. Hay, therefore, proposed that the negotiations for the indemnities and the commercial treaties should be transferred, possibly to Washington. In this he was blocked by the desires of Germany and Japan, who wished to continue negotiations at Peking. To Hay's mind, haste was the main element in the situation, for he feared lest at any moment the concert of the powers with regard to China might be broken. So seriously did Hay regard the condition of affairs that he drafted a message to China saying that he desired to express the view of the United States as to "the impropriety, inexpediency, and even extreme danger to the interests of China of considering any private territorial or financial arrangements, at least without the full knowledge and approval of all the Powers now engaged in negotiation." This was to serve as a warning of "Hands off" both to China and to the powers.

Russia had negotiated an agreement with China that practically placed Russia at least in temporary control of Manchuria. The excuse given was that because of untimely interference from without she was unable to withdraw from Manchuria, however greatly she might wish to do so. This Manchurian Convention was nevertheless not signed at the time by the Chinese, who at the last moment refused to hand over the control of that rich province to Russia. Yet Russia persisted in her demands for rich concessions in Manchuria. Meanwhile the negotiations for the amendment of the commercial treaties waited while the almost endless bargainings concerning the payment of indemnities continued.

Indeed, from a documentary point of view the activity of the United States in Far Eastern affairs during these

years is remarkable. There is a large amount of material here for the student. In 1901 and 1902, in addition to the negotiations relating to indemnities, commercial treaties, and the military evacuation of China by the powers, there is also abundant record of the stand that we took regarding Russian plans to acquire a firm control in Manchuria. As Hay said to the Chinese Government: "We have steadily kept in sight and used all our influence in maintaining the territorial integrity of China, the restoration of peaceful and orderly government, and the freedom of impartial access to commerce, objects to which all the principal nations of the earth are solemnly pledged." Mr. Rockhill also suggested, in February 1902, that the United States should formally, "emphatically, and categorically" protest against "signing of an agreement between the Chinese Government and the Russo-Chinese Bank, practically granting to the latter a monopoly of industrial development in Manchuria."[25]

The news that Great Britain and Japan had signed a defensive alliance in February was, therefore, of interest, for it presaged the time when Japan would try the gamble of war with Russia. However, Mr. Conger and Mr. Buck were alone among American diplomats in looking at the treaty as a preparation by Japan for war. The United States, of course, stood entirely apart from such negotiations. As Hay wrote to Roosevelt: "We are not in any attitude of hostility toward Russia in Manchuria. On the contrary, we recognize her exceptional position in northern China. What we have been working for two years to accomplish, and we have at last accomplished, if assurances are to count for anything, is that, no matter what happens eventually in northern China and

Manchuria, the United States shall not be placed in any worse position than while the country was under the unquestioned domination of China."[26] Of course Hay was well aware of the mendacity of Russia as regards China; but he was concerned chiefly in trying to hold Russia to the principle of the "open door." Thus it was with real satisfaction that a message was received from Mr. Conger, September 26, 1902, saying that the Russians had commenced evacuating Manchuria and that according to agreement the region up to the Liao River would be evacuated by October 8. Mr. Adee's comment on the message recalls Kipling's verses as to the "Bear that walks like a man," for he wrote: "Adam Zad seems to be getting a move on him." The indemnity question had been settled and the commercial treaty was finally signed on October 8, 1903. Thus we turn now to questions lying in a new field. These were at first to involve Hay in sharp conflict with the Senate.

CHAPTER III

THE CANAL TREATIES, PANAMA, AND THE ALASKA BOUNDARY

DURING these years, 1899–1902, the cordial relations between the United States and Great Britain were subjected to some strain by the popular sympathy aroused in the United States in favour of the two Boer Republics of South Africa, which were engaged in war with Great Britain. This popular sympathy did not, however, interfere with the correct neutrality of the United States. When, in March 1900, the United States was requested by the South African Republics to intervene to secure a cessation of hostilities, Great Britain was promptly informed of the request and of the willingness of the President "to aid in any friendly manner to promote so happy a result." The British promptly explained that they could not "accept the intervention of any other power." Later, when a Boer commission visited America and was received by the President and Secretary of State, the courteous reply of the Secretary showed that intervention without the assent of Great Britain was impossible.

It was, indeed, important to the United States that relations between the two Governments should continue excellent, for, aside from accord as to the Far East, the annoying and wearisome negotiations relating to the Alaskan boundary dispute, friction as to the blockade of Venezuela by European navies, and a variety of other

matters tended to hamper the main purpose of American diplomacy during these years. That purpose was the construction of a canal between the Atlantic and the Pacific. Across the negotiations to that end there came frequently the charge that in some way or other Hay had already committed the United States to an "understanding," if not to a secret alliance with Great Britain. A most careful search of all available records for the period supports the public and private statements of Hay that no such alliance existed except perhaps as "a dream for the future." There is no evidence to support the theory of an "understanding" in the diplomatic sense, no record of any conversations regarding such an agreement. But it is unquestionably true that in the mind of Hay there was a lively appreciation of the value of cordial relations with Great Britain. There is a mass of evidence to that effect, but the advantage of such friendship was always, in Hay's mind, on the side of the United States. He worked to promote the strength and power of America. As the general European diplomatic situation revealed itself to him, as the closely coiled and sensitive bands of world politics became clearer to his vision, he tried honestly to profit for the United States by the general condition of affairs, and he believed in cordial Anglo-American relations. Naturally he was attacked time and again as an Anglophil. The story of such attacks need not detain us, for we must now turn to the preliminaries of the construction of the canal.

Hay had already sounded the British Government regarding the abrogation of the Clayton-Bulwer Treaty in December 1898. A full year was to go by, however, before the matter was again taken up; and once more the

endeavour was made to relate Canadian disputes to the settlement of the canal problems. Finally, in February 1900, the proposals of the United States for a new treaty seemed to be acceptable to Great Britain. Senator Stewart wrote Hay a congratulatory letter saying:

> "A canal connecting the two oceans, constructed, controlled and maintained by the United States and free to all nations, which will assist in maintaining its neutrality, will join and consolidate the entire coast trade of the United States and make our two navies one. It will also open the boundless resources in trade and commerce of the Pacific Ocean to the Atlantic as well as to the Pacific States. The provisions of your treaty will relieve the United States of the enormous burden of defending the canal against foreign nations, which, if the United States undertook to exercise arbitrary control and enjoy special privileges, would cost in the near future more than the construction of the canal."[27]

Such praise, however, was not general in the Senate. Opinion gradually shifted in the direction viewed by Governor Roosevelt, who wrote privately to Hay:

> ". . . To my mind this step is one backward, and it may be fraught with very great mischief. You have been the greatest Secretary of State I have seen in my time—Olney comes second—but at this moment I can not, try as I may, see that you are right. Understand me, when the treaty is adopted, as I suppose it will be, I shall put the best face possible on it, and shall

back the administration as heartily as ever; but oh how I wish you and the President would drop the treaty and push through a bill to build *and fortify* our own canal!

"My objections are two-fold. First as to naval policy. If the proposed canal had been in existence in '98, the *Oregon* could have come more quickly through to the Atlantic; but this fact would have been far outweighed by the fact that Cervera's fleet would have had open to it the chance of itself going through the canal, and thence sailing to attack Dewey or to menace our stripped Pacific coast. If that canal is open to the war ships of an enemy it is a menace to us in time of war; it is an added burden, an additional strategic point to be guarded by our fleet. If fortified by us, it becomes one of the most potent sources of our possible sea strength. Unless it is fortified it strengthens against us every nation whose fleet is larger than ours. One prime reason for fortifying our great seaports is to unfetter our fleet, to release it for offensive purposes; and the proposed canal would fetter it again, for our fleet would have to watch it, and therefore do the work which a fort should do; and which it could do better.

"Secondly, as to the Monroe Doctrine. If we invite foreign powers to a joint ownership, a joint guarantee, of what so vitally concerns us but a little way from our borders, how can we possibly object to similar action say in Southern Brazil or Argentine, where our interests are so much less evident? If Germany has the same right we have in the canal across Central America, why not in the partition of any part of

Northern America? To my mind, we should consistently refuse to all European powers the right to control, in any shape, any territory in the Western Hemisphere which they do not already hold.

"As for existing treaties—I do not admit the 'dead hand' of the treaty-making power in the past. A treaty can always be honorably abrogated—though it must never be abrogated in dishonest fashion."

By April the campaign against the acceptance of this new convention was in full swing. Hay unfortunately felt this keenly. His correspondence teems with attacks on the Senate. For example, he wrote to Mr. Richard Watson Gilder: "I need all the help and comfort I can get from the apostles of sweetness and light, for verily I am in deep waters these days. Matters have come to such a pass with the Senate that it seems absolutely impossible to do business. I do not believe that any treaty will ever pass the Senate constituted as it now is, if it relates to a subject about which there can be any discussion whatever. The fact that a treaty gives to this country a great, lasting advantage, seems to weigh nothing whatever in the minds of about half the Senators. Personal interests, personal spites, and a contingent chance of a petty political advantage are the only motives that cut any ice at present."[28] Already Hay had tried to resign his office, but President McKinley had refused to listen to him and had added warm words of praise.

Finally, on December 20, 1900, the Senate ratified the treaty in a mutilated and amended form. Hay wrote to Choate:

"This Convention was prepared wholly by us, without solicitation on the part of Great Britain. It was altogether to our advantage, and was accepted by Lord Salisbury, in a spirit of generous goodwill, without the change of a word. When I say it was altogether to our advantage, I do not mean that it was to the disadvantage of Great Britain or of any other nation. It was in the very nature of things, that although the canal would greatly benefit the people of this country and supply a great national need, it would also be a benefaction to the world at large; and therefore the Convention, which got rid of everything in the Clayton-Bulwer Treaty which prohibited the independent action of the U.S. in building the Canal would be to the advantage of the whole commercial world."[29]

The next day, December 22, Hay wrote officially summarizing the changes in the convention. He pointed out that the clause forbidding fortification remained intact, as well as the provisions for neutrality. But he pointed out:

"1. After the words 'Clayton-Bulwer Convention' and before the word 'adopt' in the preamble of Article II the words '*which convention is hereby superseded*' are inserted.

"2. A new paragraph is added to the end of section 5 of Article II, in the following language:—

"'It is agreed, however, that none of the immediately foregoing conditions and stipulations in sections numbered one, two, three, four, and five of this article

shall apply to measures which the United States may find it necessary to take for securing by its own forces the defence of the United States and the maintenance of public order.'

"3. Article III, reading:—

"'The High Contracting Parties will, immediately upon the exchange of the ratifications of this Convention, bring it to the notice of the other Powers and invite them to adhere to it,' is stricken out.

"Article IV is made Article III."[30]

The British Government declined to accept the convention in this amended form, and by April 1901 Mr. Adee was at work drafting a new canal convention. In August Lord Lansdowne, the British Foreign Secretary, transmitted his suggestions. Hay also wrote to Mr. Choate saying:

"I have received with real interest and entire approval what you have to say about our project of a Canal Treaty. Your 'ideal' as expressed in the third page of your letter, is mine also—but we must work with the tools we have. There are several matters of detail in the *projet* which might be improved, if we were working *in vacuo*, but I thought it desirable to introduce as few changes as possible into the form which had already received the approval of the Senate. The project, as I sent it to you, had been gone over, word by word, with Senator Foraker, and its provisions had been discussed and approved, in general terms by Cullom, Frye, Lodge, Fairbanks, Spooner, and other leading Senators. I have been told by them and by some of

the Democrats that such a Treaty, if accepted by Great Britain, will pass the Senate. I am not over sanguine as to this. Three years of struggle with the unreason, the spite and the narrow minded greed of some of our Senators have left me no room for optimism. The two men who gave me the heartiest assurances of support for the original treaty were Davis and Lodge; a few newspaper articles changed their minds entirely, or if not their minds, their action. Many Senators tell me that of course it is important to preserve honorable and even friendly relations with England; but not a man Jack of them will say it in the Senate now that Wolcott's gone. I do not know that I can blame them; the breath of their lives is popularity, and it is always, for the moment, amusing to blather away at England."

For a number of weeks the exchange continued; and the cordial goodwill shown by the British was matched by the delight of President Roosevelt. Hay wrote to the new President on October 24, 1901: "The Isthmian Canal Treaty is all right. The only change the British Government suggests is to strike out their own amendment to our Article IV, which has been done."[31] Thus the new treaty when transmitted to the Senate, in December 1901, contained provisions that would enable the United States to "construct, maintain, and control" a canal from the Atlantic to the Pacific open to the commerce of all nations. This was quickly ratified.

Throughout these months Hay had been subjected to a severe strain. His annoyance at the practical defeat of his first plan for a canal treaty had been plain. In 1901 the tragic death of his older son, Adelbert, the

assassination of President McKinley, and, at the end of the year, the deaths of Clarence King and John Nicolay, both intimate friends, had been terrific blows. He had expected to retire from his position when Vice President Roosevelt succeeded President McKinley; but immediately on his arrival in Washington after the tragedy at Buffalo in September 1901, President Roosevelt had made it clear that Hay was to continue as Secretary of State. He therefore plunged into the difficult task of negotiations regarding the choice of a route for the canal.

There were two possible routes: one across Nicaragua and the shorter one across the Isthmus of Panama. If the decision should be made to negotiate for the Panama route, Colombia would have to be sounded. Mr. Hart, United States minister at Bogotá, therefore, reported, on February 24, 1900, a conversation with the Colombian Foreign Secretary, who said that his "Government had not supposed for a moment that the Government of the United States has any designs whatever upon the Isthmus of Panama, or upon any other part of Colombian territory, but that evil disposed persons hostile to the present Government of Colombia, had not hesitated, and would not hesitate, to invent anything that might seem to serve their purpose." Such comments suggested that the Colombians, even at this early date, had thought of the possibility of a *coup de main* to secure American claims to dig the canal at Panama. Later, even Chile took futile counsel as to what should be done in such an event. And in 1903 the King of Italy remarked to an American: "I should think your President would send a fleet down there and take possession of the Isthmus. It

would create an excitement for a week, but then all would be over and in the end it would be a benefit to the whole world." Instead of such rough tactics the United States pursued the long and tedious ways of diplomacy, until finally the situation became intolerable. Then President Roosevelt acted.

Indeed, for a long time it seemed certain that the canal would be dug across Nicaragua. At last, in April 1902, Hay had to report that he had "not yet been able to get a firm offer from the Government of Nicaragua." Gradually opinion shifted in favour of Panama. The new French Panama Canal Company, which had acquired the rights of the older de Lesseps company, began to make a strong bid for the chance to sell out to the United States. In January 1902 they offered to do so for forty million dollars. The Colombian Government declared, however, that the Canal Company must make an agreement with them before disposing of their concession to the United States. Furthermore, a number of conditions were laid down by Colombia. To these Hay telegraphed to Mr. Hart, March 18, 1902: "The terms are entirely inadmissible."

Thus it became apparent, as Hay wrote to Senator Morgan, that "the principal difficulty in the case is this, that both in Colombia and in Nicaragua great ignorance exists as to the attitude of the United States. In both countries it is believed that their route is the only one possible or practicable and that the Government of the United States in the last resort will accept any terms they choose to demand." Hay commented in conversation with a friend regarding the slow progress of these negotiations: "Talking with those fellows

from down there, Bishop, is like holding a squirrel in your lap and trying to keep up the conversation."

Finally the Spooner Bill passed Congress, and President Roosevelt signed it on June 28, 1902. This bill authorized the purchase of the rights and property of the Panama Canal Company, the acquisition of a strip of territory and the rights across Panama, from Colombia, and, when this was done and the title was clear, the digging and operation of a canal. If the title was not clear, the President was authorized to deal with Nicaragua in order to permit the digging of the canal through its territory.

On July 1, 1902 President Roosevelt wrote to Hay: "The great bit of work of my administration, and from the material and constructive standpoint one of the greatest bits of work that the twentieth century will see, is the Isthmian Canal. In the negotiations to start this straight I must trust to you and Knox. I hope you will take personal direction."[32]

Unfortunately, Colombia was represented at Washington by a man who was temperamentally unfitted for the negotiation of a great international agreement of this sort. Minister Concha was an unhappy accident at the outset. Thus in November 1902 Hay was obliged to cable to Bogotá that negotiations were at a standstill, for Mr. Concha refused to sign the treaty despite all the American concessions. "The President will be compelled to consider seriously what is next to be done." Minister Concha was, therefore, promptly recalled by his own Government and "was taken aboard the ship in New York in a straight jacket." His successor, Dr. Herrán, was of a different type. With him was finally signed

the Hay-Herrán Convention on January 22, 1903. This was ratified by the Senate at Washington on March 17. There followed long delays at Bogotá, which culminated in the flat refusal of the Colombian Congress to accept the document. The news was certainly disheartening to Hay. He wrote to the President on August 16, 1903: "I would come at once to Oyster Bay to get your orders, but I am sure there is nothing to be done, for the moment. You will, before our Congress meets, make up your mind which of the two courses you will take; the simple, easy Nicaragua solution, or the far more difficult and multifurcate scheme, of building the Panama Canal *malgré* Bogotá."[33] Nevertheless, as a last chance, negotiations were kept up. But Colombia put forward new demands and tried as well to secure payments from the Panama Canal Company. The situation became worse as September dragged on.

Finally Hay again wrote to the President a letter which deserves careful study.

> "There is a question whether we ought 1. To save time and to dissipate any uncertainty about our position, say to Colombia that we will not for a moment consider the propositions they are now discussing; or 2. Say nothing and let them go on making fools of themselves until you are ready to act on some other basis.
>
> "It is now perfectly clear that in the present state of Colombian politics we cannot now, nor for some time to come, make a satisfactory treaty with Colombia.
>
> "It is altogether likely that there will be an insurrection on the Isthmus against that government of

folly and graft that now rules at Bogotá. It is for you to decide whether you will (1) wait the result of that moment, or (2) take a hand in rescuing the Isthmus from anarchy, or (3) treat with Nicaragua.

"Something we shall be forced to do in case of a serious insurrectionary movement in Panama, to keep the transit clear. Our intervention should not be at haphazard, nor, this time, should it be to the profit, as heretofore, of Bogotá. I venture to suggest that you let your mind play about the subject for two or three weeks before finally deciding. For my part, I think nothing can be lost, and something may be gained, by awaiting developments for a while."[34]

Already there were rumours that an insurrection was due in Panama. September 22 was mentioned as the day; but nothing happened. Meantime President Roosevelt had written to Hay: "At present I feel there are two alternatives. First, to take up Nicaragua; second, in some shape or way to interfere when it becomes necessary so as to secure the Panama route without dealing with the foolish and homicidal corruptionists in Bogota. I am not inclined to have any further dealings whatever with these Bogota people."[35] Later, on October 10, 1903, President Roosevelt wrote to Dr. Albert Shaw: "I cast aside the proposition made at this time to foment the secession of Panama. Whatever other governments can do, the United States can not go into the securing by such underhand means, the cession. Privately, I can freely say to you that I should be delighted if Panama were an independent State, or if it made itself so at this moment; but for me to say so publicly would amount

to an instigation of a revolt, and therefore I can not say it."

The talk about the restoration of the independence of Panama had been common during the summer. If the treaty was rejected by Colombia, the Panama representatives in the Colombian Congress were imbued with the idea of a revolution to free themselves from Colombia. On October 21 a dispatch from Bogotá read: "There is no disguising the alarm existing as to the possible action of the Government of the United States should the feeling of dissatisfaction undoubtedly existing in the department of Panama find expression in overt acts." The fear was lest the United States should interfere under the treaty of 1846, which gave her the right to maintain free and uninterrupted transit across the Isthmus in case of disorder. On October 15 and 16 the President received from the Navy and Army information that led him to believe that an insurrection was at hand in the region of the Isthmus. The decision had to be made whether the United States should be prepared to enforce her treaty rights as to the freedom of transit across Panama. On October 19 orders were given that three ships should proceed to ports convenient to the Isthmus. The *Nashville* was also in the neighbourhood.

Meantime a revolutionary conspirator had arrived in New York from Panama. Dr. Amador was in communication with Mr. Nelson Cromwell, who was acting as counsel for the Panama Canal Company. He had not received any direct assistance, however, from him and was in despair over the failure of Mr. Cromwell to introduce him to people of the Government of the United

States, from whom he had hoped to receive assistance and guidance. There was also a Mr. Gabriel Duque, who wrote directly to Secretary Hay from Panama, in terms sometimes amusing and usually interesting. A letter from him to Hay, of September 21, said: "The feeling here is very intense for the independence of this Isthmus to be entitled the Panama Republic but I cannot see where a leader is to be had; neither the funds necessary to carry on a conflict should the Revolutionists succeed in buying the military officers."[36] Naturally, Hay did not reply to such a letter.

Then, in September 1903, there arrived in New York Mr. Bunau-Varilla, the French president of the Panama Canal Company. By a series of deductions, of lucky coincidences, and by his determination to try to save the situation Mr. Bunau-Varilla emerges, if we may believe his own account of his activities during the course of the next two months, as the author and prestidigitator of the revolution that took place at Panama on November 3, 1903. In this sketch of Hay's career we must omit much that is pertinent to the whole story of the way in which the revolution was planned and of the way in which Mr. Bunau-Varilla triumphed in the end. His correspondence with Hay and that of others among the conspirators are often amusing. This is not the time to do justice to their Gallic frenzy or to the truly Latin way in which everything worked out correctly at the end. President Roosevelt wrote of him to Mr. John Bigelow: "Of course I have no idea what Bunau-Varilla advised the revolutionists, or what he said in any telegrams to them as to Hay or myself; but I do know, of course, that he had no assurances in any way, either

from Hay or myself, or from anyone authorized to speak for us. He is a very able fellow, and it was his business to find out what he thought our Government would do. I have no doubt that he was able to make a very accurate guess, and to advise his people accordingly. In fact, he would have been a very dull man had he not been able to make such a guess."[37] The matchless rhapsody came, however, when Mr. Bunau-Varilla received from Hay a copy of Richard Harding Davis's story of *Captain Macklin*, that soldier of fortune operating in Central America. Mr. Bunau-Varilla took from that interview with Hay "an emotion which will never be effaced from my heart." "*Le Capitaine Macklin*," therefore, became the "subtle bond, the password, exchanged between Mr. Hay and myself." Later, however, he declares emphatically that the United States was not in any way involved in his plans for the revolution. His information as to the movements of American naval vessels was derived from the daily press. He guessed right even before President Roosevelt had made up his mind, before John Bassett Moore had been called in by President Roosevelt to advise him as to the possible rights of the United States, even before Mr. Bunau-Varilla had left Paris. It was indeed a lucky guess, but based on hard study and a knowledge of men and affairs.

Hay was kept more or less informed by his correspondent Mr. Duque of the course of events at Panama. Finally there came a telegram to Hay: "Isthmus independence proclaimed without bloodshed. Canal Treaty saved." This was signed "Amador" and was received November 3, twenty-four hours before the Republic of Panama was actually proclaimed. On November 6, 1903

the independence of Panama was recognized. On November 18, the Canal Treaty was signed in Washington by Hay and Mr. Bunau-Varilla, acting for the Panama Republic. The violent storm of criticism that followed these events cannot detain us at present. The tedious negotiations were over; the action of President Roosevelt, who was advised by Hay and by Professor John Bassett Moore, was decisive; and, as the result, the canal was finally dug.

The difficulties regarding Panama coincided to a certain extent with those arising from the attempt to adjust the boundary dispute as to Alaska. We have already seen the dead-lock that resulted from the failure of the Anglo-American joint commission to settle the various questions that involved both the United States and Canada. A *modus vivendi* was provided as to the disputed boundary, but that was merely temporary. The final settlement of the Alaska boundary was secured in October 1903, and the negotiations leading to it now require attention. Hay had proposed a plan for a judicial examination of the question by six jurists, three British (including a Canadian) and three American. He had rejected ordinary arbitration, "the besetting sin of which is to split the difference," for he was convinced that a fair interpretation of the line drawn in 1825 by Great Britain and Russia would give complete satisfaction to the United States. Until recent years that line had stood unquestioned. Now, with the discovery of gold in Alaska, the Canadians were trying to secure a new boundary line that would give them access to the sea. President Roosevelt's advice to Mr. Choate early in 1902 had been to "let sleeping dogs lie." However, in June Sir Wilfrid Laurier and Lord Minto,

who were in London for the coronation, wished to discuss the whole matter with Mr. Choate, who cabled home for instructions. He was told: "The President directs me to say to have the interview with Lord Minto and Sir Wilfrid but thinks the Canadian claim has not a leg to stand on and that compromise is impossible."[38]

As the result of two conversations with Sir Wilfrid Laurier Mr. Choate reported that the general result was disappointing, but that the Canadians were anxious to settle the matter; they might agree to Hay's proposed method of settlement, and they did not really want either Skagway or Dyea. Hay on learning also that Lord Lansdowne, who was now British Foreign Secretary, wished to discuss the matter with Mr. Choate, wrote to President Roosevelt asking for instructions. These led to a renewal of discussions, with the result that in January 1903 a treaty was signed by Hay and Sir Michael Herbert, who had succeeded Lord Pauncefote as British ambassador at Washington. It was substantially the same treaty that Hay had proposed three years before.

President Roosevelt, therefore, proposed as the American jurists Senators Lodge and Turner and Mr. Root, who was soon to retire from the Cabinet. Whereupon Sir Wilfrid Laurier at once wrote to Hay, privately, saying: "I appeal to you that these three gentlemen under existing circumstances, cannot with any fairness be styled 'impartial jurists.'" Hay replied that even yet he was unable to say who the Americans would be and that he had done his best to secure the appointment of some of the highest American judges. They, however, had refused to serve "on the ground that the office was a quasi-diplomatic employment." But Hay was vigorous in his

defence of the proposed American representation. Thus the tribunal was finally completed by the appointment of two Canadians and of Lord Alverstone, the Lord Chief Justice of Great Britain. This last appointment led Hay to comment: "Everything now depends on whether Lord Alverstone goes on the Bench with an imperative mandate or not. If he goes there with an open mind, we consider our case won."

A hitch threatened when the British proposed a delay in the meeting of the tribunal, which was to have met on September 3. Against this Mr. Choate vigorously protested. As he privately said: "I can't stand their dawdling and I am very glad that we succeeded at last in stirring them up." Some Americans were, indeed, also stirred up when President Roosevelt let it be privately and confidentially known that failing a decision, he "should ask Congress at its next meeting to make an appropriation to enable me to run the line on our own theory." He had said much the same thing to Mr. Choate in June 1903; and he wrote Judge Holmes, who was then in England, that if this tribunal did not come to a decision, he proposed "to run the boundary on my own hook." Such remarks when carefully intimated to the British may have had some effect in persuading them that there were worse things than irritating the Canadians.

On October 20, 1903 Mr. Choate reported that the decision was in favour of the United States, Lord Alverstone voting with the American members. He added to Hay:

> "Our main contention that the *lisière* goes round the inlets and not across them has been absolutely

established. Pease and Wales Islands are held to be British property, and in the actual definition of the line between the point where it touches the 56th. Parallel, and the 141st. Meridian, considerable land within our traditional and nominal boundary as shown on the old maps has fallen to Canada. I regard the result as highly satisfactory both in the actual outcome of the decision and as establishing a precedent for the nations settling their differences without calling in the neighbours. I congratulate you most heartily on the event of the commission and only regret that Sir Michael Herbert is not here to share in the gratification which you must feel.

"Our Commissioners, agent and counsel are entitled to the highest possible praise for the manner in which they have performed their duties. They have all done their very best, and the dignity and courage of Lord Alverstone's conduct must be fully appreciated by the President. On Wednesday last, when there seemed to be a tendency to a dead-lock between the Commissioners, I had an interview with Lord Lansdowne in which I pressed upon him very urgently the views of the President as expressed by him in our interview in June. . . . The upshot of our conversation was that the Commissioners all four of them must agree on the drawing of the line, and that if necessary we might ourselves agree on what would be a satisfactory line, and perhaps if necessary advise the Commissioners what we thought. But in view of the result so happily attained this part of the conversation is no longer important. I left satisfied that he and Mr. Balfour would, if they had not already done

so, tell Lord Alverstone what they thought as to the necessity of agreeing upon that line, and that the present chance of settling the controversy ought not to be lost."[39]

Thus the Alaska boundary was settled.

CHAPTER IV

VENEZUELA, TURKEY, AND THE FAR EAST

WE must now go back to pick up the thread of narrative, which was in part discarded in the last chapter, in order to deal briefly with three phases of our foreign policy each of which brought us into temporary disagreement with other nations. The situation that developed in Venezuela threatened our friendly relations with Germany. Our long-continued disputes with Turkey and an attack on an American consular officer at Beirut required the dispatch of a naval squadron to Turkish waters. In the Far East the situation in China and Korea, the advance of Russia in Manchuria, and the outbreak of war between Japan and Russia, in 1904, all compelled the lively attention of the Department of State. Finally the Peace of Portsmouth, which was signed after Hay's death, in 1905, was in great measure due to American efforts.

Venezuela had a bad habit of not meeting her international obligations. Under President Castro, an unscrupulous dictator, there were frequent incidents that embittered and entangled the situation. Revolutionists who attempted to stand against his murderous power were sharply dealt with. In the course of one of these periodical attempts to uproot his power, when a blockade had been declared by the Venezuela Government of several of their own ports, which were temporarily

held by revolutionary forces, the German cruiser *Panther* disregarded this blockade and landed German mails and German passengers within the prohibited area. Furthermore, the German Government took counsel with Great Britain regarding certain financial claims which both German and British citizens had against Venezuela, but which they had not been able to collect. The result was an agreement by Great Britain and Germany to enforce a blockade of the Venezuelan coast.

This so angered President Castro that he promptly ordered the arrest of all British and German citizens in Caracas. The United States minister there, Mr. Bowen, had been requested to act for the ministers of Great Britain and Germany in Venezuela; and he made efforts to secure the release of the prisoners. This was on December 9, 1902. Three days later Venezuela requested the United States to propose to Germany and Great Britain that the manner of settlement of claims by their citizens should be submitted to arbitration. In the meantime the assembly of German warships on the coast of South America had not gone unnoticed in the press and at Washington. Public opinion was sensitive as to the Monroe Doctrine, and President Roosevelt was determined that, despite the undoubted wrongs which had been committed by President Castro, there should be no chance that, in the course of the blockade and in the settlement, Germany or Great Britain should occupy, even temporarily, any Venezuelan territory. This was due, not only to strong American sentiment, but to the practical recent experience of China. For in 1897 Germany had forced China to lease to her the region about Kiaochow Bay for ninety-nine years. The Ger-

man flag was flying in China as the result of this "temporary" occupation by German marines.

The fact that Great Britain was bound by agreement with Germany to maintain a so-called pacific blockade of Venezuela did not interfere with the action of the Department of State. Inquiries in London led to the following personal and confidential cable from Mr. Henry White, American chargé, to Hay:

> "I am inclined to think whole Venezuelan matter, especially British acting with Germans, unpopular in this country. Sinking of ships certainly is. Consequently I am not without hope something may come of our transmission of arbitration proposal. I am expressing privately to my friends in the Government grave fears, of course as my personal opinion only, lest Great Britain will, if hostilities continue, be involved in course of [events? (word omitted)] in some action which will estrange if not antagonize American public feeling. Have refused all information to press. Am remaining in London."[40]

Great Britain had informed Germany that it would not have anything to do with the theory that the blockade was "pacific" in character. The United States, therefore, again inquired as to what a warlike blockade without war might involve as regards neutrals, and at the same time pressed for arbitration of the whole dispute. A pre-arranged debate in Parliament served to inform British opinion of the difficulties of the situation; and orders were telegraphed to British naval commanders not to bombard any part of the Venezuelan coast without

having obtained special permission from the British Admiralty. In the mean time other states, including France, put forward claims against Venezuela. The final acceptance of arbitration by both Germany and Great Britain, as announced on December 17–18, relieved the situation somewhat, for meanwhile, behind the scenes, a conflict had been waged by President Roosevelt and the German ambassador at Washington.

This has been described by President Roosevelt in a letter to Mr. Thayer, which has been published and, therefore, need not long detain us. *Die Grosse Politik* omits any special discussion of this particular matter, and Germany is portrayed as glad and willing to arbitrate. However, there is no record at the Department of State which bears out President Roosevelt's statement that "Germany declined to arbitrate the question at issue between her and Venezuela, and declined to say that she would not take possession of Venezuelan territory, merely saying that such possession would be 'temporary'—which might mean anything." This precise matter may, therefore, await further historical investigation; but there is nothing to refute the President's statement. The present version of this extraordinary incident is as yet entirely President Roosevelt's, in a letter dated August 21, 1916.

The American battle-fleet was assembled under Admiral Dewey near Porto Rico with orders "to be ready to sail at an hour's notice. I told John Hay that I would now see the German Ambassador, Herr von Holleben, myself, and that I intended to bring matters to an early conclusion. Our navy was in very efficient condition, being superior to the German navy." The ambassador was told that the President could no longer permit delay in

answering his request for arbitration of the dispute between Germany and Venezuela. The ambassador replied that Germany could not arbitrate. President Roosevelt said that unless arbitration was agreed to, he would order Admiral Dewey to see to it that the Germans did not take possession of any Venezuelan territory. A few days later the ambassador called again and he was told that Admiral Dewey would be ordered to sail for the coast of Venezuela twenty-four hours in advance of the specified time. "Less than twenty-four hours before" that time the German Emperor requested President Roosevelt to undertake the arbitration himself.

This version differs somewhat from that given by Mr. Thayer, and in both instances there is a lack of precise dates. As we have seen, on December 11 Venezuela requested arbitration, and Germany was so informed on the 13th. On December 16 the United States urged arbitration on Germany. On December 17 Germany agreed to arbitration, and the United States was so informed on December 18. The President later gave Germany the initiative as to arbitration proposals and according to a pre-arranged plan praised the Kaiser for referring the whole matter to The Hague for final settlement.

Italy had now joined the blockading powers; and there was much delay in the lifting of the blockade and in the settlement as to priority of claims. Incidents connected with the blockade further irritated the Venezuelans and caused tension in the United States. Mr. Bowen, who had received permission to represent Venezuela in the proposed preliminary settlement, was a cause of annoyance to the British, who criticized him severely. However, the blockade was lifted and the Hague Tribunal

began its survey of the various claims of the different countries during the summer.

The Ottoman Empire was another state with bad international habits. The United States had been pressing Turkey for the settlement of indemnities due to losses experienced by American citizens during the Armenian troubles of the decade 1890–1900. These claims the Turkish Government recognized, but was very slow in paying. The amount was small; other powers had much heavier claims for damages. Yet so involved was the financial and international situation at Constantinople that the Sultan was finally driven to a subterfuge by which, at his own suggestion, payment of about nineteen thousand pounds was covered by a payment made in connexion with the construction of a man-of-war for Turkey by Cramp, the American ship-builder.

Hay had cabled to Mr. Griscom, the American chargé at Constantinople, on June 19, 1900: "Press urgently both at Palace and Porte for early date of payment. It is of great importance to us and to Turkey that the matter be settled and our friendly relations be resumed and strengthened. It is necessary for us to know immediately what our relations are to be." Whereupon the Turkish Foreign Secretary showed a "private instruction from the Sultan to the Minister for Foreign Affairs informing the latter that it had been decided to purchase a cruiser from a private firm in America and to include the £20,000 claimed as indemnity by American citizens in the purchase money and so dispose of the difficulties with the Americans."[41] Thus the Sultan would save his face, settle with the United States, and avoid the importunities of his other creditors.

Mr. Cramp, therefore, on Mr. Adee's advice, took "an attitude of discreet receptivity." Hay's comment was that "there is something ludicrous about the lying of these Turks. They have never mentioned the indemnity matter to Cramp—although for a year they have been talking of it in Washington and Constantinople."[42] Thanks to further pressure by the Department of State, the first payment on the cruiser was made at the end of 1901. The ship was completed and delivered to Turkey in April 1904. In this fashion the Americans were disposed of, for in June 1901 the Sultan had settled for nineteen thousand pounds with the American legation at Constantinople.

A second episode concerned the kidnapping by brigands of Miss Stone, an American missionary in Macedonia. She was held for ransom and was finally released on the payment of a large sum privately raised in the United States. During the latter part of 1901 the Department of State was much exercised in securing her safe return. As Mr. Adee, who was an inveterate punster, wrote to Hay, October 5, 1901: "This has been a peculiarly hard week for me, and my mind is black and blue all over with the coming of the blessed Saturday afternoon. I have been worse off than Stephen,—I have been Stoned all the time with a continuous but unfatal result. I sent you a long telegram this morning *super hanc petram.*" He continued two days later: "The missionaries are a curious lot. Their consensus seems to be that it would be more economical and convenient in the long run to let Miss Stone be killed—a practical proposition which I admit while reserving opinion on the score of charity." In the mean time at Constantinople,

Saloniki, and Sofia (in Bulgaria) every sort of endeavour was at work to try to secure the release of the captive.

Hay was rather inclined to let Miss Stone remain in the hands of the brigands for a time, hoping thereby to reduce their terms and to prove to them that no large sum would be forthcoming immediately to ransom her. In February 1902 Miss Stone was released on the private payment of a sum of over sixty thousand dollars. The question of responsibility for this outrage remained a subject for discussion during many months to come.

Mr. Leishman, American minister at Constantinople, does not seem to have distinguished himself during the entire episode, and within a few months he was once more in difficulties with the Turkish authorities. These troubles were due chiefly to the claims of missionaries and educators that they were protected by the most-favoured-nation clause and to the failure of the Turkish authorities to act promptly on lines which were proposed by Mr. Leishman. Soon the *amour propre* of the minister was involved and he proposed to ask for his passports and retire with dignity from a position that he found himself unable to control. On November 1, 1903 he suggested the dispatch of the Mediterranean squadron to Turkish waters and it was intimated by him that his promotion to the position of ambassador might relieve the situation.

To add to these complications the entire international situation now began to look unsettled. Mr. T. Jefferson Coolidge, of Boston, wrote to Hay regarding the condition of affairs, urging that at least a gunboat should be

sent to Constantinople to protect Americans in that city. The Department, however, was averse to extreme action until an attempt to assassinate the American vice-consul at Beirut was reported at the end of August 1903. The report came through first that the vice-consul had been murdered; and at once the European squadron was ordered to Beirut. This created great excitement for a few days; but Hay wrote to President Roosevelt: "Leishman ought to be able to finish up our little chores with Turkey in a few days, and report that the fleet is no longer needed. I have had two long talks with the Turkish Minister, and have told him that if he does not want our ships in Turkish waters, it is very easy to cause them to depart. The Sultan has only to keep his word with us, and settle the two or three matters which have dragged too long. Of course I was not brutal. I was very friendly and polite." Later Hay was to speak much more emphatically. He was tired out, however, and soon left Washington for New Hampshire. There a letter from the President assured him that all was well: "Under the circumstances it was out of the question for us not to send our squadron to Beirut, and out of the question for us to withdraw it afterward, unless we are given the satisfaction that should be given."[43]

By the end of January 1904 the squadron was withdrawn from Beirut. Unfortunately, in spite of the agreement of the Turkish Foreign Office to American demands as to the treatment of American schools in Turkey, the group of officials surrounding the Sultan Abdul Hamid II were able to block the fulfilment of this agreement. This was the vicious circle in which such matters ran in Turkey. In August 1904 the American squadron was,

therefore, ordered back to Turkish waters—this time to Smyrna. Under pressure of this sort and in view of the vigorous press campaign that was conducted in the United States a considerable part of our contentions were finally accepted by the Sultan. On the whole, Hay does not seem to have felt so keenly in respect to Turkey as he did in respect to other countries that American interests required a more urgent and peremptory tone on the part of the Department of State; though much is to be said for his comment to President Roosevelt: "We can neither undertake to reform Turkey and Persia, nor can we enter into the reasons why it is impossible. To the professional philanthropist there seems no flaw in the logic of the question they always ask. 'You admit that it is wrong—why will you not try at least to set it right?'"[44]

Now it is high time that we turned to the Far East and to a survey of the activities of American diplomacy with respect to China, Manchuria, Korea, and the Russo-Japanese war.

Chinese affairs were still in a muddle. The settlement secured after the Boxer troubles in 1900 took a long time to determine, and, even before its conclusion, there was strong evidence that at least as regards Manchuria the principle of the "open door" and of the "administrative entity" of China were to be severely strained. The views of the United States with respect to concessions to Russia in Manchuria were strongly expressed in a memorandum written by Hay, but drafted by Mr. Rockhill, of February 1, 1902. This read in part:

> "An agreement by which China cedes to any corporation or company the exclusive right and privilege of

opening mines, establishing railroads, or in any other way industrially developing Manchuria, can but be viewed with the gravest concern by the Government of the United States. It constitutes a monopoly, which is a distinct breach of the stipulations of treaties concluded between China and foreign powers and thereby seriously affects the rights of American citizens; it restricts their rightful trade and exposes it to being discriminated against, interfered with, or otherwise jeopardized, and strongly tends toward permanently impairing the sovereign rights of China in this part of the Empire, and seriously interferes with her ability to meet her international obligations."

It soon became evident that Germany was indifferent as to Manchuria; France was bound in alliance to Russia; and the Anglo-Japanese Alliance had just been signed. It was left to America to pursue a lonely but, on the whole, altruistic policy. The United States reserved "for itself entire liberty of action should circumstances unexpectedly arise whereby the policy and interests of the United States in China and Korea might be disturbed or impaired." As Mr. Rockhill wrote in April 1902: "Our only chance of seeing the 'open door' strictly adhered to is exercising constant vigilance." Thus repeatedly and on varied occasions did the United States press for the application of the idea of the "open door."

In Korea as well there was a silent contest on, which might at any time flare out in a terrific war. Japan and Russia were the rivals, and in August of 1902 it was reported that Russia was on the point of suggesting that the United States should be invited to join with

Russia and Japan in guaranteeing the inviolability of Korea. Japan made it quite clear, however, that as long as the Russians were so strongly established along the railway lines in Manchuria, such an agreement with respect to the integrity of Korea was impossible.[45] Thus the scene shifts back and forth. Sometimes it is in Korea and sometimes in Manchuria that the centre of diplomatic interest lies. Hay wrote to Mr. Henry White: "The Manchurian matter is far more delicate and more troublesome. Russia, as you know, has given us the most positive assurances that the famous Convention of seven points [with respect to Manchuria] never existed. We have a verbatim copy of it as it was presented with preamble and appendix, by Mons. Plançon [Russian representative at Peking] to the Chinese Government. If they choose to disavow Plançon and to discontinue their attempts to violate their agreements, we shall be all right; but if the lie they have told was intended for a week or two, the situation will become a serious one."[46]

Hay now began to realize that the ordinary public opinion of the United States would not permit American armed intervention in the Far East. He did not foresee that within a year President Roosevelt was privately and confidentially to threaten such intervention during the Russo-Japanese war. He therefore spoke only of the moral influence of America as directed towards the prevention of war and the maintenance of treaty obligations. Indeed, there was some chance that an adjustment could be found at the last moment which might at least delay, if not actually prevent, the outbreak of war between Japan and Russia. This war, however, was almost inevitable unless the two rivals could come to terms by

themselves. Japan made it very clear to the United States that it "would not welcome any offers of intervention or mediation in the present difference with Russia for two reasons; first that no agreement arrived at by other means than friendly negotiation between the two parties would have any real permanence; second, that a discussion of intervention might give Russia an excuse for further delay, to the military disadvantage of Japan."[47]

With the outbreak of hostilities, in February 1904, Hay at once set to work to try to preserve the neutrality of China. A circular note was dispatched to Austria, Italy, Belgium, Spain, the Netherlands, and Portugal proposing that these neutral states should use their good offices to secure recognition by both Russia and Japan of the neutrality and the administrative entity of China. To Paris a special note was sent saying that Japan was prepared to respect the neutrality of China provided Russia would do so. The note continued: "It seems to us it will be a great mistake for Russia from the point of view of sentiment to allow Japan to assume the *beau rôle* in this matter, and from the point of view of material interests the exclusion of China from the conflict will be greatly to the advantage of Russia." Russia, Japan, Great Britain, Germany, and China were also approached directly. By February 19, replies had been received that secured the immediate purpose of Hay. China, with the exception of Manchuria, was to remain neutral.

Early in the war Japan forced the Korean Government to accept a protectorate and thus began the various stages by which complete control over Korea was

finally secured by Japan. Hay did not protest at this development, nor is there any evidence that the morality or equity of this proceeding entered his mind. The economic consequences of the protectorate were at once evident, for on May 19, 1904 Minister Allen cabled from Seoul: "Imperial Korean edict last night annuls all treaties and agreements with the Russian Government, including the Yalu timber concession, and subjects private Russian agreements to a further investigation. Emperor reluctantly complied with Japanese demands in the matter."[48]

As the war progressed, there were repeated instances that required the prompt intervention of the Department of State to preserve Chinese neutrality. Every one of these was successful. With reference to claims made by the United States as regards the seizure by either of the belligerents of American property on the high seas and elsewhere the procedure was not so effective. The slow processes of the Russian prize courts soon provoked considerable complaint; but it is interesting to note that arguments submitted by the United States to secure the release of property so seized or the payment of damages for such seizure were for the most part ultimately successful. Also, as gossip began to turn on the terms of peace that might be negotiated when the proper time came, Hay sent a circular note that disclaimed for the United States any intention to profit at the expense of China by putting forward claims of any kind. This, of course, was done in order to provoke similar disclaimers by other countries. Here again Hay was successful, thus disposing of the alleged plan by which it was said that various powers hoped to compel

China to "pay the freight" at the close of the war. Any such plan was nipped in the bud, and any partition of China was prevented.

At the end of February 1905 there came the first faint "feeler" from Japan as to the possibility of peace negotiations. The terms of peace had already occupied the mind of President Roosevelt for some time. From this time on he was to be increasingly busy with them. Unfortunately the winter had told severely on Hay's health. He was ageing rapidly and was nervously exhausted. Other physical ills combined to make it imperative that he should have a rest of a few months. He went abroad in the middle of March. From this trip he returned in June to die. During the closing months of his secretaryship he was out of touch with the course of events, though the President always planned to keep him fully informed. Mr. Dennett in a volume of unusual value has given us a picture of the negotiations that preceded the signature of the Treaty of Portsmouth. These events, however, were not part of Hay's contribution to the history of American diplomacy.

In this sketch many matters that occupied Hay's attention from time to time have been omitted for lack of space. The meeting at The Hague in 1900 and the proposals for a second such meeting in 1904 to promote the cause of peace have not been mentioned. The arbitration treaties over which he laboured during the last year of his life have also been omitted, chiefly because of the hostile reception given them by the Senate. Negotiations to preserve the independence of Liberia and to secure the Danish West Indies for the United States fill many pages of Hay's record, yet they are not so

important as those that we have noted. The release of Perdicaris, an American subject resident in Morocco, was an incident of the time, which, however, chiefly redounded to the reputation of President Roosevelt. Furthermore there has been no room to speak of Hay's administration of the Department of State, of his vexations as to matters of patronage, and of the interesting notes that he has left on this subject. His general attitude was that of a man who was sorely irked by politics; he fulminated against those to whom "politics" was the very breath of life; and at times, with a high sense of the dignity of his office, he did not press his views and desires sufficiently on those who had it in their power to block his plans in the Senate.

Thus, as we look back, we can see how Hay changed his mind as to the acquisition of the whole of the Philippines. In this he followed President McKinley. The Alaskan boundary was finally settled as Hay proposed, though we may never know how much influence President Roosevelt had. The canal treaty in its second and successful edition was frankly based, as Hay said, on the form given first by the Senate. The wearisome negotiations with Colombia and Nicaragua ended in the dispatch of our naval vessels to maintain the independence of Panama. The disputes with Germany as to Venezuela and with Turkey were ended by the threat of force also, at the orders of President Roosevelt. In the Far East the "open door" was not laid down as a principle fresh from Hay's mind, though he sponsored it and engineered its acceptance by the powers. Throughout the Boxer revolt Hay did much to secure the safety of the foreigners in Peking and adroitly pro-

moted the settlement achieved. In the long exchanges with Russia regarding Manchuria he saw through the tissue of lies that had been woven to protect Russian advance. Finally, however, it was Japan that used the sword to secure for itself a favourable position on the mainland of Asia.

Such a record does scant justice to the admirable qualities that, nevertheless, marked his career as Secretary of State. Amongst that interesting and often brilliant group of friends who for many years forgathered in Washington, Hay's position was secure. Far beyond that group he had a great influence for righteousness among the nations. His knowledge of the affairs of the world, his wide acquaintance with both men of action and men of letters, his felicitous pen, his ready humour, as well as his flaming anger, all made of him an excellent Secretary of State. He was by nature both a poet and an aristocrat. He disliked the routine of service; but his conscientious soul sacrificed itself in the employ of his country.

ELIHU ROOT

SECRETARY OF STATE

JULY 7, 1905, TO JANUARY 27, 1909

BY

JAMES BROWN SCOTT

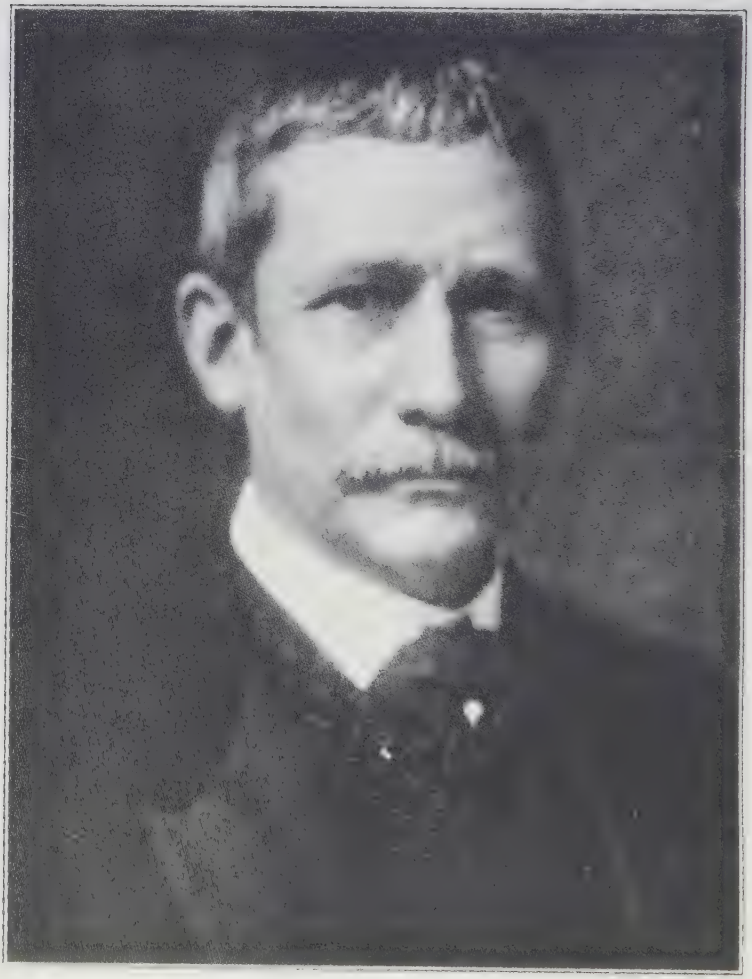
FORMER SOLICITOR OF THE DEPARTMENT OF STATE

SECRETARY OF THE CARNEGIE ENDOWMENT

FOR INTERNATIONAL PEACE

ELIHU ROOT

COURTESY OF THE KEYSTONE VIEW COMPANY



Elihu Root

CHAPTER I

A LAWYER—SECRETARY OF WAR

ELIHU ROOT took the oath of office as Secretary of State of the United States on July 7, 1905. He had not belonged to the diplomatic service, as had some of his predecessors, but he had had training both at the bar and in public administration which, in the opinion of President Roosevelt, amply qualified him for the Secretaryship of State, or, indeed, for any post of honour and trust under the Government of the United States.

His entrance upon a public career in Washington, which for some years was to be the centre of his activities, began in an unexpected and dramatic way. In July 1899, at his summer home in Clinton, New York (in which city and state he was born), he was called to the telephone, to learn that President McKinley wished him to take the Secretaryship of War. Mr. Root replied to the President's secretary that this was "quite absurd," as he knew "nothing about war" and "nothing about the army." Under ordinary circumstances this might have ended the matter; but the circumstances were not ordinary. After conferring with the President, the latter's secretary informed Mr. Root that Mr. McKinley "was not looking for any one who knows anything about

war or for any one who knows anything about the army"; that he wanted "a lawyer to direct the government of these Spanish islands," and that Mr. Root was "the lawyer" he wanted. Mr. Root's reply was an acceptance. His public career at Washington began.[1]

The lawyer whom President McKinley wanted was fifty-four years of age. Through his mother he was a direct descendant of that major of the minute-men, John Buttrick, who, leaping into the air at Concord Bridge, is said to have cried: "Fire, for God's sake, fire"—the shot which was to be, in Emerson's famous phrase, "heard round the world." It was the same John Buttrick who, a little later, served on a committee of the town of Concord that drew the fundamental distinction between an American constitution emanating from the people as the source of power, which could be changed only by them, not by the legislature, and the constitution framed by a legislature, which was merely a law and could be changed by it, at its pleasure.

His father was Oren Root, an excellent mathematician, and long professor of mathematics in Hamilton College, familiarly and affectionately called by his students "Square Root."

Their son, Elihu, was born at Clinton, on February 15, 1845. His father was then principal of the Syracuse Academy, in the city of that name, which no less a person than Andrew D. White then attended, who, in later life, recalled as salient among his recollections of this period "the cries and wailing of a newly-born babe in the rooms at the academy occupied by the principal, and adjacent to our big school-room."[2] This was certainly one of the earliest occasions, if not the earliest,

when Mr. Root's voice reached the great and impressed itself upon their memory.

Educated at Hamilton College, from which he graduated in 1864, he is today the most loyal and most distinguished of its alumni. He taught, for a time, at the Rome Academy, and prepared himself for the practice of law in New York University, from which institution he received his degree in 1867. He had thus been active at the bar for thirty-two years before he entered President McKinley's Cabinet.

He was fortunate in his early surroundings. In the office of David Dudley Field he came into contact with that distinguished man, of whose *Outlines of an International Code* he still speaks, upon occasion. At the bar his experience was as varied as it was large. He advanced rapidly in his profession, being retained in many cases of great importance—only occasionally in a criminal proceeding, but pre-eminent in civil suits of the first importance and of the most diversified nature. In President Arthur's Administration he was, from 1883 to 1885, district attorney of the United States for the southern district of New York, during which time he appeared for the Government in not a few prosecutions brought for violation of the neutrality laws of the United States. The range of Mr. Root's professional activity was thus more than ordinarily extensive.

During these years of increasing practice Mr. Root was taking a keen interest in public affairs, allying himself with the reform element of the Republican party. Some five years before he entered the President's Cabinet, he was a delegate at large to the New York constitutional convention and chairman of its judiciary committee—

a position that carried with it leadership on the floor. In this position he greatly distinguished himself, and exactly twenty years later he was to preside over the constitutional convention of the summer of 1914.

Lawyers in large practice often rely upon their juniors for the facts and the law of the case. This was not Mr. Root's method. He ascertained, himself, the facts, as they often determine the case, and he sought and found among the authorities the principle of law that he believed should be controlling in the state of facts. If an adjudged case was not to be found, he brought the facts within the principle that he thought should decide the controversy, and presented it carefully and convincingly to the court, that its decision might turn upon the point which he had raised and stressed. Habits of his youth clung to him throughout his professional career. Long after he had attained a commanding position, he happened to be in the West, trying a case of first magnitude, before the federal court. After its adjournment in the afternoon, his associates repaired to the golf-course or refreshed themselves at the club. Mr. Root, however, made for the law-office of one of the counsel and shut himself in with the books, looking up cases that had been cited against him, collecting the authorities opposed to his contentions, and finding others that appeared to be in his favour. He did his own preparation, and in court he was able to rely upon himself and did not need to depend upon others. Admirable training, this, for an administrative officer.

The "Spanish islands" to which President McKinley referred were, in the order of their importance at the time: Cuba, the Philippines, and Porto Rico. Their re-

lations to the United States were undetermined, and the law to be applied to them was largely international law. The war with Spain was over. It had broken out in April of the preceding year in order to put an end to the disorder and bloodshed in Cuba, to separate that island from Spain, and to establish it as an independent republic of the Western hemisphere. Ratifications of the treaty ending the war had been exchanged, and the two countries were then at peace, with Cuba occupied by the United States until such time as it might be ready to assume the responsibilities of republican government.[3]

The Philippines had been ceded to the United States for the sum of twenty million dollars, and Porto Rico was retained to cover the expenses of the war. These "Spanish islands" were placed under the jurisdiction of the Secretary of War, and President McKinley was well advised to have a lawyer, albeit a lawyer who had had no experience in war or in the direction of the army. Porto Rico was to become an integral part of the United States, and have the form of government that territories of the United States have received at the hand of Congress.[4] Cuba was an international problem. It was foreign territory under American occupation.[5] The problem was twofold: (1) to arrange matters as rapidly as practicable so that Cuba might be turned over to its own people, in accordance with the promise of the Congress of the United States on declaring war against Spain; and (2) to guarantee Cuba against disorder within and attack from without its territory. This the Secretary of War successfully accomplished. A republican form of government was to be established in the island "adequate for the protection of life, property, and

individual liberty" and for the performance of its international obligations. For these purposes, and for none other, the United States was to possess the right to intervene.[6] After the acceptance of the terms of the Platt Amendment and their incorporation in the Cuban Constitution of 1901, the United States transferred the government of the island to the Cuban people, May 20, 1902. These provisions were later incorporated in a treaty concluded on May 22, 1903 between the two Republics, which contains at the same time a formal recognition of the independence of Cuba by the United States. Instances are rare of a large and powerful nation intervening in behalf of a weak, neighbouring province of a distant country, and, through the success of its arms, establishing and guaranteeing the independence of the province or colony in whose behalf the strong and powerful nation had intervened.

The problem of the Philippines was more difficult than that of Cuba. It is still with us. The Philippines are a vast archipelago, and at the time of their acquisition by the United States the Spaniards there were few, and the native population composed of various and often warring tribes, some eight millions of souls in number. There were practically no Americans in the islands beyond the army of occupation and citizens who had gone thither after the surrender of the islands by Spain to the United States. The natives were unfitted at the time for anything approaching self-government, and the United States had not had experience with colonies. It was difficult to incorporate the islands into the United States because of their distance, and impossible to extend to the natives the self-government with which the

inhabitants of an American territory had hitherto been vested. These were questions for a lawyer, and for a lawyer like Mr. Root.

Secretary Root had in mind the replacement of the military governor by a civilian governor-general. Education, simple, primary, but adequate, with opportunity of higher education, became the fundamental principle of his plan. As soon as the Filipinos were ready, they would be taken into the public service, and they were to enjoy the rights that the Americans of Revolutionary days had claimed and set forth in the constitutions of their states, and as amendments to the Constitution of their United States.

By 1900 Secretary Root felt that a decided step could and should be taken in the Philippines towards autonomous civil government. He so advised President McKinley and drafted instructions, approved by the President with but the change of a single word, for the guidance of the Philippine commission, of which William Howard Taft, later to be President of the United States and Chief Justice of its Supreme Court, was president.[7]

The first step in the process was to be the establishment of municipal governments, in which the Filipinos, as in a political laboratory, might have experience in self-government. Above the municipal there should be larger administrative divisions. Filipinos fitted for office in either the larger or smaller divisions were to be preferred to Americans. There were, however, to be guiding principles introduced at the very beginning. The curious reader will find them contained in George Mason's bill of rights for Virginia, of June 12, 1776, in the Declaration of Independence of July 4, 1776, and in the original

amendments to the Federal Constitution of September 17, 1787. A very large and real system of self-government is already in operation in the Philippines, and the Filipinos appear to be looking forward to the time when they shall assume, in the language of our Declaration, an independent position under "the Laws of Nature and of Nature's God." In any event, a colonial policy of self-government was advised by Secretary Root and through his initiative introduced into the Philippines. His handling in a creative way of the political problems thrust upon the country by the insular possessions showed the presence of a constructive statesman at Washington.[8]

There was a continental matter of an international nature that seriously engaged Secretary Root's attention. Alaska had been purchased from Russia in 1867, and its vast extent and uncertain boundaries had given little trouble until gold was discovered. Then Americans, Canadians, and people from other countries rushed to the Klondike as adventurers had rushed to America upon its discovery, and had crowded California because of gold and the desire to acquire riches overnight.

The Government of the United States was responsible for maintaining order within Alaska. "Disturbances are always liable to occur in new mining camps," said Secretary Root in his report for 1902, "and there is always a possibility of their occurring along a frontier line."[9] Trouble indeed arose. The Alaska boundary dispute with Great Britain, with which the reader of the preceding sketch in this volume is familiar, became one of the major international problems with which the Administration was confronted. Fortunately Great Britain and

the United States agreed to arbitrate the question of boundaries by an international commission composed of "six impartial jurists of repute" to "consider judicially the questions submitted to them." The United States was to select three, and the President chose Secretary Root and two American associates. Great Britain chose as its chief representative Baron Alverstone, Lord Chief Justice of England, and, because the question was Canadian, two distinguished Canadians. The tribunal, it is to be observed, was composed of three "impartial" Americans, two "impartial" Canadians, and the impartial Chief Justice. The award was rendered on October 20, 1903.

The fact that in every case in which there was a difference among the commissioners, Lord Chief Justice Alverstone accepted the American contention is a guaranty of the impartiality of the decision. It is also a tribute to Lord Alverstone, who, in a case affecting his country, could divest himself of his nationality and decide as a judge, even against the claims of his country; and it is a proclamation to the world at large that judicial settlement between nations is a possibility.

On March 31, 1906 Mr. Root, as Secretary of State, had occasion to deliver an address at a dinner given in New York City, by the Pilgrims of the United States, in honour of the Right Honourable Earl Grey, Governor-General of Canada, during the course of which he said:

> "The Alaska boundary question could have been settled without difficulty at any time for many years; there was no controversy about it, and it failed of

settlement because our Congress was unwilling to make an appropriation to survey the boundary; and through that fatuous refusal to dispose of the question when there was no controversy, there came a most critical situation, the settlement of which was exceedingly difficult."[10]

Although Secretary Root had disclaimed any knowledge of war or of the army, he found himself obliged, during his tenure of office, seriously to consider the reorganization of the army; and he did it in such a way as not only to meet with the approval of his country, but also to be regarded as a model by our English cousins across the sea.

The army had for years past been run on a peace basis. Secretary Root proceeded to reorganize it for war instead of peace purposes. The problem was twofold: to create a staff, and to educate it when it had been created. The result was the Staff and the Staff College. Heretofore there had been a commanding general of the army, but no staff with a chief of staff in the sense in which those terms were understood in Europe.

The chief of staff under the Root plan was to be a general officer of the army, detailed for a period of four years, to carry out the instructions of the Secretary of War and to supervise what would be called the military discipline and manœuvres of the army. The President, as Commander-in-Chief, was to communicate his desires to the Secretary of War. In this way a chief of staff, as representative of the hierarchy in the army, was to be directed and controlled by a civilian Secretary of War, except in cases for which the President might

wish to confer with and personally to direct the chief of staff.

It was essential to have a chief of staff and assistants competent for their respective duties, and a general staff prepared in the piping days of peace to plan projects which in case of war could and should be carried into execution. This part of the program was educational. The graduates of the Military Academy at West Point were trained in the elements of their profession, but this was not enough. There should be training at army posts, especially at Fort Leavenworth; and a college of military character for the advance training of officers in the army who had supplemented the instruction of West Point at army posts and at Fort Leavenworth, and whose character, ability, and attainments suggested that they should continue their studies at this higher school of war. This should be the Army War College.

The general staff was reorganized by an act of Congress of February 14, 1903, in accordance with the recommendations of Secretary Root. The Army War College was established also upon his recommendations. A modest appropriation of $20,000 was obtained in 1900 for "the direction and coördination of the instruction in the various service schools," and an appropriation was made in 1902 for the continuance of the "Army War College," which had, in fact, been created by assembling officers of the army in Washington Barracks in the District of Columbia. The sum of $15,000 was allotted for the continuance of the "invisible" college, and the sum of $400,000, or so much thereof as might be needed, was appropriated at the same time, "for the

erection of the necessary buildings for the Army War College."[11]

The corner-stone of the College was laid on February 21, 1903, on which occasion Secretary Root delivered an address, stating its aims and purposes. At its formal dedication, on November 9, 1908, while he was Secretary of State, he likewise delivered an address. In the wall facing the main entrance to the building there is a large and impressive granite tablet bearing the inscription: "Because of the special interest and effort of Elihu Root Secretary of War, Creator of the General Staff of the Army, this building for the Army War College was authorized by Acts of Congress approved June 30, 1902, and April 23, 1904."[12]

Under General Orders No. 155, dated November 27, 1901, Secretary Root provided special service schools between West Point and the War College, so that the officers detailed to this latter institution might profit by its superior instruction.[13]

Secretary Root foresaw that the regular army would needs be small in comparison with the militia of the different states, and volunteers. Therefore something must be done to have an instructed militia for a reserve; the former members of the militia would be a second reserve, and the volunteers enrolled in the army without previous service, a third. To effect this, officers of the National Guard were to be admitted to Fort Leavenworth; volunteer officers who had shown capacity in the recent war likewise were to be admitted to Fort Leavenworth to pursue courses of instruction under officers of the regular army. Adequate provision should be made by which officers of the army should be detailed

to the National Guard upon the request of governors of the states. The arms that they were to use were to be the same as those used in the regular army and were to be supplied by the federal Government. There should be examinations by which their qualifications for higher command should be tested. And a fundamental requirement should be, as stated in Secretary Root's own words, taken from the Report of 1903, that "the organization, armament, and discipline of the organized militia shall be the same as that prescribed for the regular army."

It was no great step to the system of reserve officers of the World War, for the command of troops mustered into service for a national emergency. Secretary Root had in mind a trained army, with the possibility of adding to it a trained national guard, should there be need of it. He looked upon the national army as a unit, but he recognized that the army was but an element in an adequate system of national defence. The navy was then the other element. The co-operation of the two would be in the interest of each, and of the country at large. Therefore, Secretary of War Root and Secretary of the Navy Moody entered into an arrangement, with the approval of the President, published as General Orders No. 107, by which a joint army and navy board was created, to be composed of four officers from each of the two branches of the service, "to hold stated sessions and such extraordinary sessions as shall appear advisable for the purpose of conferring upon, discussing, and reaching common conclusions regarding all matters calling for the coöperation of the two services."

It is related that an English statesman who hesitated to accept the post of Secretary for War in a British

Cabinet some time before the outbreak of the World War was influenced to accept the portfolio in the belief, justified by the event, that Secretary Root's reports as Secretary of War of the United States would be of invaluable service to him, likewise a civilian, in reorganizing the British Army in time of peace for service in an approaching war, as in each country the military is subordinated to civil control.

Secretary Root regarded the work that he had undertaken at President McKinley's request as done. He resigned the Secretaryship of War on February 1, 1904, in order to resume his practice at the bar, having served as Secretary of War from August 1, 1899. His withdrawal from public service was for but a few months, for on John Hay's death, at the earnest solicitation of President Roosevelt, he accepted the Secretaryship of State, assuming office on July 7, 1905.

The new Secretary of State thus had ample experience in administration, and during the years at the War Department he had handled many a matter of an international nature. A detachment of the American army by his direction had taken part in the relief expedition to Peking on August 14, 1900, during the Boxer troubles in China.[14] He had been a member of the Cabinet during the larger part of John Hay's tenure of the Secretaryship of State, and the two Secretaries had been in constant consultation about the foreign policies of the country. When Mr. Root returned to the Cabinet, he was a mature and experienced statesman, ready to take up the threads of policy, with which he was already familiar.

CHAPTER II

MOROCCO AND THE CONGO

BY far the most important diplomatic question pending when Mr. Root assumed the Secretaryship of State involved the conflicting interests of France and Germany in Morocco.[15] Their differences had brought Europe to the verge of war, to prevent which the European powers wisely agreed to confer at Algeciras, in Spain, January 16, 1906. In that conference the United States took part, represented by an accomplished diplomat, Henry White, then ambassador to Italy, and Samuel R. Gummeré, at that time minister to Morocco.

It was not unnatural that the Government of the United States should be represented, because it was a contracting party to the convention signed at Madrid, July 3, 1880,[16] in which certain of the powers in Europe had determined the protection to be accorded to their nationals and their interests in Morocco. The convention was signed at Algeciras on April 7, 1906,[17] and ratification advised by the Senate on December 12, 1906. Two days later it was ratified by President Roosevelt. On December 31, 1906 it was deposited with the Spanish Government, and proclaimed on January 22, 1907.

Without dwelling upon the convention, the two technical questions of supreme importance before the conference were those of the police organization and financial reform of Morocco. Fortunately, agreements were reached upon both. The interests of the United States in

Morocco were infinitesimal in comparison with those of the European powers, yet American influence counted for much in the settlement. "I wish to avail myself of this opportunity," Prince von Bülow, then Chancellor of the German Empire, said in an address of November 14, 1906, in the Reichstag, "to declare that we have reason to be grateful to America for its attitude at the conference of Algeciras. America took, by reason of its less important interest, an attitude of reserve. It maintained its neutral position throughout, but its distinguished and highly respected representative, Mr. White, omitted no opportunity to remove difficulties and to aid toward an agreement which should be satisfying to all the parties in interest."[18] If the Chancellor had stopped here, his remarks might be looked upon as merely complimentary. He continued, however, showing the reason for his appreciation: "That was a great service which America rendered to the peace of the world, because the failure of the conference of Algeciras would not only have broken the relations between Germany and France, but would have disturbed the general political situation in the world, and would have introduced a disturbing and threatening element into the politics of all nations." And he concluded with the statement that "This was the second great service which America rendered to the peace of the world, the first being the reëstablishment of peace between Japan and Russia."[19]

There are two matters that should be mentioned in this connexion. Ambassador White, under Secretary Root's instructions, signed the convention with a reservation—which is not so rare on the part of the United States as those unfamiliar with its policy are in the

habit of suggesting.[20] The Senate also stated its advice and consent to ratification to be "without purpose to depart from the traditional American foreign policy which forbids participation by the United States in the settlement of political questions which are entirely European in their scope."[21]

The General Act of Algeciras may not, and indeed did not, mean much to the United States. To France, however, it was a resurrection of prestige; it meant that the isolation of Sedan was past and that the powers of Europe were forming new alignments. To Great Britain it meant that the rise of the German menace was at least stayed by a new combination. To Germany it meant that the peace of Europe was kept without German loss of face at a time when the German navy was not yet ready to risk a war in which it might have to encounter Great Britain.

Among outstanding questions not the least important that faced Secretary Root when he accepted the post and began to perform the duties of foreign minister related to the exploitation of the native population of the Congo. It was settled during his secretaryship. The whole question is an excellent example of the interest that the people of the United States take in foreign affairs when humanity is involved, and the preference that they give to ethical rather than to commercial aspects when both are concerned.

Secretary Root recognized fully the need of a change in the government of the Congo Free State. At the same time he recognized the difficulties in the way of reform. "If the United States had happened to possess in Darkest Africa a territory seven times as large and four times

as populous as the Philippines," he said in a letter, dated February 20, 1906, to Edwin Denby, then a member of Congress, and later to be appointed Secretary of the Navy by President Harding, "we, too, might find good government difficult and come in for our share of just or unjust criticism."[22]

This was the attitude of the practical reformer, with whom patience ceases only under great provocation to be a virtue. Leopold II, King of the Belgians, and in his personal capacity founder and sovereign of the Congo Free State, was unwilling to correct the abuses in the Congo, which were generally known to exist. As the United States had no minister accredited to the Congo, it required tact on the part of Henry Lane Wilson, then minister to Belgium, directly to intervene, even on instructions from his Government. In his *Diplomatic Episodes in Mexico, Belgium and Chile*, just off the press, Mr. Wilson says that "the Kongo question was a sensitive subject with the King; discussions relative to the origin and legitimacy of his title and control over Belgian Kongo were extremely distasteful to him. He regarded the Belgian Kongo as his private patrimony over which he had autocratic power and resented any intervention in its affairs by the Belgian or other foreign governments."[23]

From a constitutional standpoint, there was much to say for King Leopold's position, although from an ethical, moral, and humanitarian one, little. He had been for many years interested in the exploration of Africa. As early as 1876 he had brought together a group of prominent European scientists, statesmen, and publicists, at Brussels, to discuss and define "the ways to be followed and the methods to be used in order def-

initely to plant the standard of civilization upon the soil of central Africa."[24] The result was the formation of the International African Association. He procured the services of the celebrated Henry M. Stanley, who brought light into darkest Africa by repeated voyages thither, in the course of which more than three hundred treaties were made with the natives of the Congo basin. The International African Association was later merged into the International Association of the Congo.

This was a development due solely to Leopold in his private capacity, not as King of the Belgians. The territories which the Association had had explored in the basin were not the property of European powers, although parts were claimed by one or more of them. Such title as the natives possessed they had conveyed to the Association, which thus claimed a vast and undefined territory, through which the Congo River reached the ocean. They had not been acquired through agents of a state for a state, but by agents of an independent and private organization, of which Leopold, in his private capacity, was the life, the soul, the administrator.

Leopold wished it to become a state by the recognition of the European powers. One of his private representatives was an American, Henry S. Sanford by name, who, on April 22, 1884, procured the recognition of the International Association of the Congo and its flag by the United States.

To put an end to conflicting claims in and to the basin and mouth of the Congo River, Bismarck, then the all-powerful Chancellor of the German Empire, invited specified powers interested in that part of the world to confer in Berlin, by representatives chosen for the

purpose. The result was the celebrated Congress of Berlin, the objects of which, as stated in the preamble of its General Act of February 26, 1885, were to regulate "the development of commerce and of civilization in certain regions of Africa," to assure "to all peoples the advantages of free navigation upon the two principal African rivers which empty into the Atlantic ocean," to prevent "misunderstandings and contentions to which the taking of new possessions on the coast of Africa may in the future give rise," and to increase "the moral and material well being of the indigenous populations."[25]

The Congress adopted declarations on the liberty of commerce in the Congo basin, slave trade and its prevention, the neutrality of the territory comprised in the conventional basin of the Congo, and freedom of navigation of the Congo according to international treaties and international practice.

Although its statehood was already recognized by the United States, and tentative negotiations had shown that other powers would shortly follow suit, the Congo was not invited to the conference. Its statehood was, however, recognized during the conference, and at its adjournment, as a recognized state, it was allowed to adhere to the General Act.

A new state had been artificially created. In 1890 a conference was held at Brussels, among other matters to suppress slave trade, to protect the native population of Africa, and to procure for the continent "the benefits of peace and civilization." The Government of the United States was a party to its General Act of July 2, 1890, adopted for this purpose.[26]

Meanwhile the sovereign of the Congo was exploiting

the natives without seeking to elevate them morally or physically, depriving them of the possession of their lands, and holding them to forced labour, in such a way as to reduce them to slavery.

It was to be expected that the Congo would some time be annexed to Belgium, to be governed constitutionally as a colony of that progressive country. On August 2, 1889 Leopold had made his testament to that effect. But matters went from bad to worse, and when Secretary Root assumed office, the misgovernment of the Congo was becoming an international scandal, ventilated in periodical and book by a host of vigorous writers.

Under date of January 15, 1907, Secretary Root sent the following cablegram to the American minister at Brussels:[27]

> "Our attitude toward Kongo question reflects deep interest of all classes of American people in the amelioration of conditions. The President's interest in watching the trend toward reform is coupled with earnest desire to see full performance of the obligations of articles 2 and 5 of slave-trade act, to which we are a party."

At this very moment the Belgian Parliament had the question of annexation before it. On February 15, 1907 the Senate of the United States requested the President to co-operate with the signatories of the Treaty of Berlin "for the amelioration of the condition of . . . the native inhabitants of the Basin of the Congo," who were alleged to have been "subjected to inhuman treatment

of a character that should claim the attention and excite the compassion of the people of the United States."[28]

Public sentiment in England was aroused, and for the same reasons; but as Great Britain was a party to the Congo Act, as well as to the Brussels Convention, it was easier for its representative to protest. Secretary Root therefore stated to the British Government the willingness of the United States to co-operate, and on December 16, 1907 he sent to Minister Wilson the following cablegram:

> "Our attitude and sentiment rest on the broad general purpose to elevate and benefit the native Africans as declared in the Berlin act, to which we are, however, not a party, and emphatically reaffirmed in the Brussels act of 1890, applicable to all dominion and control of civilized nations in Central Africa, to which we are a party. Our voice and sympathy are in favor of the full accomplishment of those declared purposes, and . . . we are free, and indeed morally constrained, to express our trust and hope that every successive step taken by the active signatories will inure to the well-being of the native races and execute the transcendent obligations of the Brussels act, in all its humanitarian prescription, especially as to article 2."[29]

Without going into details, it can only be stated in this place that in the course of 1907 and 1908 a treaty was made between the Congo and Belgium, by which the former was annexed by the latter. A colonial law was framed and promulgated, by which the Belgian col-

ony was secured the advantages of constitutional government, capable and willing to correct the former abuses, and which has, in the course of time, done so. On November 15, 1908 the Congo was officially transferred to Belgium, which assumed all existing international obligations in respect to the erstwhile Free State of the Congo.[30] In dealing with this delicate and complicated question Secretary Root had expressed the sympathetic feeling of the American people for the reform of admitted abuses, and in a way so unexceptionable as to merit unstinted praise.

CHAPTER III

THE THIRD PAN-AMERICAN CONFERENCE AND THE SECOND HAGUE CONFERENCE: ARBITRATION TREATIES

DURING the negotiations at Algeciras, Secretary Root was occupied with the third of a series of conferences held on American soil by American governments. The first had met at Washington in 1889, as stated in the preceding volume of this series, upon the call of Secretary Blaine. The second had assembled in the city of Mexico in the autumn of 1901 and adjourned in 1902. The third was to meet in Rio de Janeiro, and the date agreed upon was the summer of 1906.

It happened that at the very time, Russia was advocating a second conference of the nations to meet at The Hague. Which conference was to yield to the other? There was no doubt in Secretary Root's mind on the matter. He felt that the Rio conference, agreed upon in advance of that at The Hague, should have precedence. With this view he negotiated with the Russian ambassador at Washington, and through his intervention the Second Hague Peace Conference was postponed so as not to conflict with that of the American republics at Rio de Janeiro.[31] Secretary Root felt the importance of the American conference to such a degree that he himself made arrangements to accept the invitation of the Brazilian Government to be present, and he actually attended in person the opening session of July 31, 1906.

His address on that occasion, in the presence of the representatives of all the Americas, struck a resounding note, which still reverberates throughout the American continent.[32] The principles that he announced and the attitude of the United States that he there defined are as the corner-stone of the new Pan-Americanism. Many Americans to the south of the Rio Grande look upon Secretary Root's pronouncement as the Magna Charta of the Americas. The views that he expressed are fortunately familiar, but his exact language cannot be too often quoted:

> "We wish for no victories but those of peace; for no territory except our own; for no sovereignty except sovereignty over ourselves. We deem the independence and equal rights of the smallest and weakest member of the family of nations entitled to as much respect as those of the greatest empire; and we deem the observance of that respect the chief guaranty of the weak against the oppression of the strong. We neither claim nor desire any rights or privileges or powers that we do not freely concede to every American republic. We wish to increase our prosperity, to expand our trade, to grow in wealth, in wisdom, and in spirit; but our conception of the true way to accomplish this is not to pull down others and profit by their ruin, but to help all friends to a common prosperity and a common growth, that we may all become greater and stronger together."

Such was the statement of the Secretary of State, speaking in South America, in behalf of the United

States. He followed this declaration of principle by an appeal to the representatives of the Americas there assembled:

> "Let us unite in creating and maintaining and making effective an all-American public opinion, whose power shall influence international conduct and prevent international wrong, and narrow the causes of war, and forever preserve our free lands from the burden of such armaments as are massed behind the frontiers of Europe, and bring us ever nearer to the perfection of ordered liberty."

Deep as was Secretary Root's interest in the conference, he felt that its meeting was likely to be greater than its measures; that it was but one step in a continuous advance, the goal to be reached only in the fullness of time. "Not in a single conference, nor by a single effort," he concluded, "can very much be done. You labor more for the future than for the present; but if the right impulse be given, if the right tendency be established, the work you do here will go on among all the millions of people in the American continents long after your final adjournment, long after your lives, with incalculable benefit to all our beloved countries, which may it please God to continue free and independent and happy for ages to come."

Leaving Brazil, Secretary Root visited Uruguay, Argentina, Chile, Peru, Panama, Colombia, and Mexico. In all of these countries he delivered notable addresses. His doctrine was aptly called by Robert Bacon, then his colleague in the Department of State, one of "sym-

pathy and understanding, of kindly consideration and honorable obligation."[33]

In an intimate letter to Senator Lodge, under date of October 2, 1906, President Roosevelt wrote: "Root is back from his wonderful trip. We in this country do not realize how wonderful it was and how much good he has done."[34] Latin America does realize this, and Mr. Root is today, in every part of its vast territory, more venerated than any other North American of his day and generation.

Secretary Root's interest in Latin America always characterized his foreign policy. It was especially marked in his visit to Latin America, and while it cannot have a nobler monument than the series of notable addresses which he delivered on that occasion, his interest is also visible for years to come in the graceful and artistic Palace of the Americas in Washington. The ground upon which it stands was deeded, at his suggestion, by the Congress of the United States, to the twenty-one republics, and the building, not inappropriately termed "palace," in which the representatives of the Latin-American states meet under the chairmanship of the Secretary of State of the United States and discuss their common interests, is a gift from the late Mr. Andrew Carnegie, made at the instance of Secretary Root.

The conference of the nations at The Hague which was postponed in order that the Americas might not be discommoded met in that city on June 15, 1907. An invitation had been extended by the Government of the Netherlands, at the request of Russia, to each one of the American republics. With the exception of Costa Rica they were all represented, although the delegates

from Honduras arrived too late to participate in the closing proceedings and did not, therefore, affix their signatures to the conventions and declarations. In the first of the conferences only those nations accredited to the Court of St. Petersburg had been invited to attend. As Brazil had failed to do so, Mexico and the United States had been the only American republics attending and taking part. At the second of the Pan-American conferences Mexico and the United States were requested by the representatives of the American republics to take steps that would result in America as a whole being invited to a second Hague conference.[35] With the approval of Mexico, the negotiations were conducted by Secretary Root in Washington.

It is an open secret that Europe was not then anxious to have the American republics invited. Secretary Root, however, was unwilling to have the conference meet in the absence of the American republics. Russia yielded and the invitations were extended.[36]

With a single exception the conventions and declarations of the First Hague Conference were what was called "open," in the sense that any power not invited to the conference could adhere to the results of its labours and thus be a party to all of its conventional acts. The exception was the Pacific Settlement Convention, dealing with good offices and mediation, commissions of inquiry, arbitration, and arbitral procedure, to which non-signatories could adhere only in pursuance of an agreement with the signatory and ratifying powers. Secretary Root secured the terms of an acceptable protocol, and on June 14, the day preceding the formal opening of the conference, the representatives of the

Latin-American states signed it at The Hague and were thus entitled to participate in the conference upon a footing of equality with all of its members.

Secretary Root believed, and rightly, that the American representatives would distinguish themselves even in an international gathering such as the conference at The Hague and that their presence would be an education to the representatives in international thinking and in international acting. In neither concept was he mistaken, for the conduct of the Latin-American delegates at that conference made it impossible to omit them from any conference in which the nations at large should take part.

It is not to be expected in a brief survey of Mr. Root's secretaryship that the proceedings at the conference can be described in detail, or that its conventions and declarations should be analysed.[37] The presence at The Hague of the representatives of forty-four nations, for a period of four months, discussing in times of peace the methods of its preservation and the rules for the conduct of war on land or on sea to bind the nations if, unfortunately, peace should be disturbed in any part of the world, was greater than any of its results, however great they might be.[38] However, another observation should be made.

Germany was anxious to have the question of the limitation of armament excluded from the program. To this Secretary Root was unwilling to agree, even although President Roosevelt urged him to do so in the interest of the conference. He refused, only consenting that the American delegation should not bring up the subject; but if brought up, the American members should support

it.[39] It was brought up by Great Britain, and Joseph H. Choate, head of the American delegation, supported the limitation of armament on behalf of the United States.[40] It should be said in justice that Italy reserved the right to bring up the question, but later expressed the intention neither to participate in the discussion nor to vote on the question.[41]

The instructions which Secretary Root prepared for the American delegation have been published, not only in the *Foreign Relations of the United States*, but in separate form, and in French. They are universally regarded as models of what such instructions should be. A passage that has met with world-wide approval relates to the extent to which the American delegates should urge their projects. It stated that they should not be pressed to the point of irritation—a precept which nations at that conference and at subsequent gatherings have not always observed.

Secretary Root instructed the American delegation to advocate the time-honoured American doctrine of the immunity from capture of private, unoffending property upon the high seas. It was considered, but lost, owing to the opposition of Great Britain. He advocated the conclusion of general treaties of arbitration, but owing to the opposition of Germany, all proposals of this kind failed. During the course of the conference he directed the American delegation to support the proposal made by Germany and Great Britain for the establishment of an international court of prize; and later, when the convention was adopted by the conference, but held up by Great Britain until agreement should be had upon the law to be applied by the court, Secretary Root had

the United States represented in the Naval Conference of London, in the course of 1908–1909, called for the purpose of supplying the law of the seas, and directed the American delegates to append their signatures to the Declaration of London.[42] Still later, as senator from New York, he secured the advice and consent of the Senate to its ratification, April 24, 1912,[43] but the failure of Great Britain to ratify prevented the declaration from becoming law, and also prevented the establishment of the court of prize in which that law was to be administered.

The most startling project that Secretary Root directed the American delegation to lay before the Second Hague Peace Conference was the proposal to establish a permanent court of international justice, to be composed of judges acting under a sense of judicial responsibility, who should, in their personal experience, represent the principal systems of law obtaining in the world.

A draft convention, consisting of some thirty-five articles, was agreed to, dealing with the organization, jurisdiction, and procedure of such a body.[44] Owing to the limited time at its disposal, and the difficulty of the subject presented for the first time, the conference was unable to agree upon a method then generally acceptable to the powers for the appointment of the judges. It was reserved for Secretary Root, thirteen years later, at The Hague, to propose the method of constituting the court that he had advocated in his instructions, and thus to bring into being the Permanent Court of International Justice,[45] which bears an appreciable relation to the Supreme Court of the United States.

The extent to which the conference was advancing towards peaceable settlement at the sacrifice of old practices was not pleasing to several of the powers. It was doubtful whether some of the larger ones would be willing to meet again in conference. The American delegation had been directed by Secretary Root to secure the acceptance of a proposal for the calling of a third conference, which should, if possible, be withdrawn from the control of Russia, or of any other single power. After much difficulty the American proposal was accepted by Russia and adopted by the conference. The World War prevented its meeting, and the Second Hague Conference still awaits a successor.

While arbitration cannot be said to be originally a purely American doctrine, it was, nevertheless, through Jay's Treaty of 1794 with Great Britain that modern arbitration came again into repute and practice in the modern world. The First Peace Conference of 1899 had endeavoured to agree upon a treaty of general arbitration, but its success had been limited to the institution of the Permanent Court of Arbitration, a purely optional tribunal for litigants who might agree to arbitrate particular disputes. Between the first and the second Hague conferences, great progress had been made, and the United States had negotiated treaties of arbitration with France and Great Britain, by which questions of a judicial nature were to be submitted to temporary tribunals of arbitration to be constituted in accordance with the provisions of the Pacific Settlement Convention adopted by the conference of 1899.

It was necessary for the nations to agree in advance upon the judicial nature of each dispute to be submitted;

and a special agreement defining the questions at issue had to be negotiated and ratified for each case. In the treaties formerly proposed by Secretary Hay, the President, through his Secretary of State, would have been authorized to frame the special agreement, or *compromis*, with the foreign power for such arbitration; but the Senate had amended the treaties so that the special agreement in each case would require to be submitted to and approved by the Senate. In other words, the special agreement was to be a real treaty. Secretary Hay disapproved, and advised President Roosevelt not to attempt to secure an agreement of the powers to their modification. Secretary Root now felt that the agreement to submit to arbitration disputes of a judicial nature was in itself an immense advance. Therefore, after the adjournment of the Second Conference, he set to work to conclude a series of treaties of this kind, frankly accepting the requirement of the Senate that the special agreement should also be advised and consented to by that body as a formal treaty. In the course of 1908–1909 he had concluded no less than twenty-five treaties of this kind with the leading nations of the world, with the exception of Germany.[46]

The first was with France. It bore the date of February 10, 1908. Its first article bound the two countries to refer to the Permanent Court of Arbitration of the First Hague Conference "differences which may arise of a legal nature, or relating to the interpretation of treaties existing between the two Contracting Parties, and which it may not have been possible to settle by diplomacy," reserving from the obligation questions affecting "the vital interests, the independence, or the honor of the two

Contracting States, and" which "do not concern the interests of third Parties." This clause appeared in all of the treaties, as also the requirement for the submission of the special agreement to the Senate.

The treaty with Great Britain of April 4, 1908 contains a clause of no little interest in the development of Great Britain and its self-governing colonies into the sovereign parts of the British commonwealth of nations. The concurrence of a self-governing dominion of the British Empire was to be obtained by His Majesty's Government before concluding the special agreement.

CHAPTER IV

DIFFICULTIES WITH COLOMBIA

IN 1903 a revolt broke out in Panama, then one of the United States of Colombia. Panama had been a great asset to Colombia, separating, as it did, the Atlantic and Pacific Oceans by a narrow neck of land forty miles wide. There had been many suggestions that a canal should be dug somewhere across the Isthmus, and the two oceans united. The increasing necessity of such a water route to the United States from 1846 to the close of the nineteenth century, and the diplomatic problems to which it gave rise, have occupied many pages of this volume, and of the last four volumes of this series. Nearly every Secretary of State since Buchanan's time had had to deal with some phase of the Isthmian problem, which had become greatly complicated rather than simplified by the articles of the Clayton-Bulwer Treaty[47] of 1850, by which Great Britain and the United States were to be partners, so to speak, in the construction and control of any Isthmian canal. The reader of previous sketches of this series has seen how that partnership, accepted by Secretary Clayton, had become increasingly irksome, and how Great Britain had turned a deaf ear to our request to dissolve it.

With the settlement of the Pacific Coast, and the material growth of the United States, its Government became anxious to dissolve the partnership and to construct and control the route. Repeated requests were

made upon Great Britain to abrogate the treaty, which would allow the United States to construct the canal without British aid or approval. These requests Great Britain refused.

In the Spanish-American War, Great Britain had remained neutral, but at a critical moment it had intervened to prevent German interference with the bombardment of Manila by Admiral Dewey's fleet. The friendly relations established on this occasion and in other ways led to a renewal of negotiations for the abrogation of the treaty. Secretary Hay's first treaty having failed in the Senate, his second, November 18, 1901, fared better and was not inappropriately proclaimed on Washington's birthday of the following year. The way was now clear for the construction of the canal, inasmuch as the Government of the United States had decided in favour of the Panama in preference to the Nicaraguan route.

Panama was originally Colombian territory, and Colombia, therefore, had to be reckoned with. A treaty was negotiated by Secretary Hay with Mr. Herrán, chargé d'affaires of Colombia at Washington, on January 22, 1903, by the terms of which the Government of the United States obtained the right to cut the canal across the Isthmus of Panama for "the sum of ten million dollars in gold coin of the United States on the exchange of the ratification of this convention after its approval according to the laws of the respective countries, and also an annual payment during the life of this convention of two hundred and fifty thousand dollars in like gold coin, beginning nine years after the date aforesaid."[48] The treaty was ratified by the United States

on March 17, 1903, but Colombia refused to ratify. On the 3rd of November of the following year the revolution broke out in Panama against Colombia. Three days later the Government of the United States recognized the independence of Panama and subsequently refused to permit Colombia to send troops to the Isthmus to recover the lost province. A treaty with the new Republic of Panama was concluded, November 18, 1903, by which the Government of the United States guaranteed the independence of Panama and, for the sum of "ten million dollars ($10,000,000) in gold coin of the United States on the exchange of the ratification" of the convention, "and also an annual payment," during its enforcement, "of two hundred and fifty thousand dollars ($250,000) . . . beginning nine years after the date aforesaid," obtained the lease, or the right of way "in perpetuity," to the Canal Zone, through which the canal was to pass.

Secretary Root justified the recognition of Panama's independence, as appears from an address that he delivered on "The Ethics of the Panama Question."[19] He was, however, strongly of the opinion that President Roosevelt's Administration should, before its close, reach a settlement of the outstanding difficulties between Colombia and the Government of the United States. The Colombian Government of that day was anxious to reach an agreement and invited Secretary Root, on his return from his South American visit, to repair to Bogotá. This he did, and as the result of the visit the Colombian Government transferred Dr. Enrique Cortés from London to Washington to undertake the necessary negotiations.

There is no space here to go into the details of the Root-Cortés negotiations. Three treaties for the full settlement of the difficulties arising out of the separation of Panama were signed, on January 9, 1909.[50] One was between Colombia and the United States, one between Panama and the United States, and the third between Colombia and Panama. The first two were submitted to the Senate of the United States and approved by that body during the secretaryship of Robert Bacon, Secretary Root's successor. Colombia, however, was unable to ratify those that its plenipotentiary signed; and a revolt drove General Reyes, the President of Colombia, who had undertaken the negotiations, from his office. Inasmuch as these treaties were of a tripartite nature, Colombia's failure to ratify rendered the treaty between the United States and Panama non-operative.[51]

CHAPTER V

NORTH ATLANTIC FISHERIES ARBITRATION

WHEN Mr. Root accepted the Secretaryship of State, he did so with the intention of getting out of the way, if the opportunity should afford itself, the historic and at this time the great outstanding dispute between Great Britain and the United States. It would seem that he was determined to raise the fishery question by taking advantage of an incident otherwise unimportant in order to bring up the entire question and to settle it amicably. Experience with the Alaska boundary had shown him that questions which otherwise might assume alarming proportions could be settled in an atmosphere of friendship and mutual confidence, provided they were handled before an acute issue could arise. Therefore Secretary Root visited in person the fishing-grounds in Newfoundland and Canada and informed himself on the spot of the ways of the fishermen, their customs, and their needs. Shortly after his return to the United States and the actual assumption of his duties of Secretary, an opportunity was presented. In October 1905 it was reported that Newfoundland had forbidden American vessels to fish in its territorial waters, which they were entitled to do under the convention of 1818. This turned out to be a rumour without foundation. It appeared, nevertheless, to be a fact that several American vessels had been ordered by the

Newfoundland authorities not to fish in Bonne Bay, where American citizens had a right to take and catch fish. The source of the trouble was none other than that treaty with Great Britain by which the independence of the United States was recognized. The American negotiators at that time insisted that they should enjoy the *right* of fishing in British-American waters which they had enjoyed before the Revolution. The British negotiators in 1782–1783 refused to accept this contention. As the result of much discussion an agreement was reached, contained in the third article of the definitive treaty of September 3, 1783, by which the Americans were to have the right to fish "in the open seas" —a right which was theirs under the law of nations— and the *liberty* "to take fish of every kind on such part of the coast of Newfoundland as British fishermen shall use."

It is to be observed that in the case of the high seas the word "right" is used, whereas "liberty" was to be enjoyed within British waters. The distinction between the two words seems to be that the enjoyment of a right is not a grant, whereas a liberty is the grant of a privilege to be exercised within the jurisdiction of the country making it. Many years after the event, John Adams, one of the negotiators, told how the Americans yielded. The British said "it [liberty] amounted to the same thing, for liberty was right and privilege was right; but the word *right* might be more unpleasing to the people of England than *liberty;* and we did not think it necessary to contend for a word."[52]

The concession proved unfortunate. As long as peace was preserved between the two countries, the enjoy-

ment of the grant would seem to be guaranteed under the treaty, but the outbreak of the War of 1812 changed matters, as Great Britain claimed that "all treaties are put an end to by a subsequent war between the same parties."[53] The American contention, on the other hand, was that this part of the treaty in principle was not abrogated, but only suspended during the war. There was no difficulty as regards the acknowledgment of the right, but according to the British contention the grant of a privilege, such as liberty was held to be, would fall with the treaty creating it.

The liberty had also been granted in the treaty of 1783 to dry and cure fish on certain portions of British territory. This liberty was held likewise to be lost with the treaty. There was no fisheries article in the treaty of peace signed at Ghent on December 24, 1814. It had, therefore, to be obtained, if at all, by subsequent negotiation. Gallatin and Rush, specially authorized for the purpose, negotiated for the United States the convention of October 20, 1818, which secured for American fishermen the liberty to fish in British waters within certain prescribed geographical limits, and to dry and cure their fish in specified portions of Newfoundland and the coast of Labrador until they should become settled. The consideration for what the British called a new grant (the other having perished with the treaty creating it) was the renunciation of the liberty to fish within specified portions of the British waters; the new liberty was to take fish in common with British subjects.[54] American fishermen would only be admitted to unspecified bays and harbours "for the purpose of shelter and of repairing damages therein, of purchasing wood,

and of obtaining water, and for no other purpose whatever" (Article I). There was a further limitation, that American fishermen were to be "under such restrictions as may be necessary to prevent their taking, drying or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them."

Here was a fertile field for controversy. According to the British conception, Great Britain would be entitled to regulate fishing as to time, place, and manner, and the Americans be obliged to conform to such regulations, as their liberty was to be exercised in common with British subjects. Local legislation might seem reasonable to local fishermen, but unreasonable and unacceptable to fishermen many miles from home. If Great Britain possessed this right, it might be exercised in such a way as to deprive the Americans of fishing. The line between fair and unfair regulation must needs be drawn somewhere. The American contention was that regulations should not be made without the consent of the American Government, apparently on the theory that a common fishery should be regulated in common.

The Americans renounced in 1818 the liberty "to take, dry, or cure fish on, or within three marine miles of any of the coasts, bays, creeks, or harbours" not specifically assigned to them. From what points on these coasts, bays, creeks, or harbours were the three marine lines to be drawn? The British contention was from headland to headland. The American contention was that the three-mile line was to follow the sinuosities of the coasts, bays, creeks, or harbours, which would allow the Americans to fish three miles from any of the coasts and to enter and fish within large bays, which

included some of the best fishing-waters, provided they did not approach within a line three miles from the land.

The American contention was presented in Secretary Root's note of June 30, 1906 to Whitelaw Reid, United States ambassador near the Court of St. James's in which he said that the Government of the United States,

> "is willing and ready now, as it has always been, to join with the Government of Great Britain in agreeing upon all reasonable and suitable regulations for the due control of the fishermen of both countries in the exercise of their rights, but this Government can not permit the exercise of these rights to be subject to the will of the colony of Newfoundland. The Government of the United States can not recognize the authority of Great Britain or of its colony to determine whether American citizens shall fish on Sunday. The government of Newfoundland can not be permitted to make entry and clearance at a Newfoundland custom-house and the payment of a tax for the support of Newfoundland light-houses conditions to the exercise of the American right of fishing. If it be shown that these things are reasonable the Government of the United States will agree to them, but it can not submit to have them imposed upon it without its consent."[55]

The question, therefore, was one of principle, and neither side being willing or, indeed, able to renounce its contention, arbitration was called in to help the two countries out of their difficulty. The arbitration convention of 1908 between the two countries was availed

of, and a special agreement containing the questions to be submitted to arbitration was drawn up by Secretary Root on behalf of the United States, and James Bryce, then British ambassador, on behalf of Great Britain. The agreement was dated January 27, 1909 and was the last important document to which Mr. Root affixed his signature as Secretary of State. Five arbitrators were appointed: Mr. George Gray from the United States, Sir Charles Fitzpatrick from Great Britain, and three members agreed upon by consent of the two parties in controversy—Dr. Drago of Argentina, Dr. Savornin Lohman of Holland, and Dr. Lammasch of the Austro-Hungarian monarchy as umpire.

The question was argued elaborately during the summer of 1910 by British and American counsel at The Hague. Mr. Root, then Senator of the United States, had the privilege of arguing, as leading counsel on behalf of his country, the question that he had raised, and through arbitration to have it settled in a way that has proved satisfactory not only to the United States, but to the British Empire as well. The arbitration under the special agreement settled the controversy to which it related. It would have gone out of existence with the settlement of the case if it had been an ordinary agreement. It was not. Article IV contained a provision that the tribunal should recommend a method of settling disputes which should arise in the future, and if the procedure was not accepted by the high contracting parties, that the difference should be submitted to arbitration at The Hague. This the two countries regarded as a continuing obligation.[56] The method proposed by the tribunal was accepted, and, as so often happens, the

mere existence of a right to submit disputes to arbitration led to a direct adjustment of the difficulty by the parties in interest without further proceedings. By taking advantage of the friendly relations between the two countries, a treaty was concluded by Mr. Chandler P. Anderson on behalf of the United States, and Alfred Mitchell Innes, British chargé d'affaires, on behalf of Great Britain, under date of July 20, 1912, which seems to have removed the fisheries from the field of controversy.[57] Mr. Root's presentation of the case not only convinced the tribunal, but has already taken its place as a model of what an international argument should be.

CHAPTER VI

REORGANIZATION OF THE STATE DEPARTMENT

WHEN an institution has been created and is in existence, its administration becomes of the first importance. An institution cannot run of itself. If it is administered in accordance with the reason of its creation, its success may be predicted. If, on the other hand, it is left to administer itself, the most that can be hoped is that it may have some measure of success. The Department of State had been created by act of Congress in 1789, and under it the President is his own Minister of Foreign Affairs, at least if he cares to be such and has time to devote to the foreign policy of the United States. The framers of the statute creating the Department were of the opinion that the President would need a Secretary of State who would take his directions. In the course of time it has become more than obvious that the Secretary of State cannot carry out either the President's directions or his own foreign policy, which has had the approval of the President, without an efficient diplomatic and consular service to carry out instructions. Foreign countries have found by experience that diplomacy should be a career, and that the consular service should be a career, although not perhaps to the same extent. The United States had not taken as yet the first step to make either the diplomatic or the consular service a profession and a career.

There was a difficulty in the way, in that the President is empowered by the Constitution to appoint officers of the United States subject to the confirmation of the Senate. Of this power he cannot be deprived by act of Congress. It was, however, possible for him to prescribe rules and regulations for both of these services by executive order, which, of course, would bind only himself, and only so long as he himself would care to be bound. His successor would have a free hand in the matter. This was the way out of the difficulty.

It was, however, easier to take care of the diplomatic service by executive order, and by "indirection to find direction out," as in the case of the consular service. The wisdom and ingenuity of Secretary Root were equal to each case, and President Roosevelt was in sympathy with the reform of both services that the Secretary of State had in mind.

First, of the diplomatic service. Shortly after Secretary Root's entrance upon the duties of his office President Roosevelt issued, on November 10, 1905, the following executive order, which was to be the first step towards professionalizing the foreign service of the United States:

> "It is hereby ordered that vacancies in the office of secretary of embassy or legation shall hereafter be filled
>
> "(a) By transfer or promotion from some branch of the foreign service, or
>
> "(b) By the appointment of a person who, having furnished satisfactory evidence of character, responsibility, and capacity, and being thereupon selected

by the President for examination, is found upon such examination to be qualified for the position."[58]

On the same day the Secretary of State continued the presidential order by one of his own. By its terms a board was to be appointed consisting of the Second Assistant Secretary of State, the solicitor for the Department of State, and the chief of the Diplomatic Bureau, to determine by proper examination in Washington the qualifications of such persons. The examinations were to be oral and written, and to include international law, diplomatic usage, and modern languages. One foreign language was to be required, which might be either that of the country in which the embassy or legation is located, or French. The examining board was authorized to issue notices and to make such rules as it might deem necessary, and, immediately upon the conclusion of such examination, to report to the Secretary in writing, "stating whether in its judgment the candidate is or is not qualified for the particular position applied for, and if the decision is adverse to the candidate, also briefly summarizing the grounds of such decision."[59]

The order did not affect ambassadors or ministers, although it was doubtless presumed that in the course of time even they could be selected from the young men whose capacity for diplomatic appointment had been decided by examination. The way, however, is open to appoint to the higher posts persons of recognized fitness who may not previously have been in the diplomatic service. This happens even in those countries where diplomacy is a career. The President was to designate the young men for the examinations, and in this way it

was possible to take note of the geographical divisions of the country, as in the other appointments. The system inaugurated by Secretary Root was successful. President Roosevelt's order was retained by President Taft and by each succeeding President. It has been modified, of course, by experience, but it has opened the way for a career in the diplomatic service to those who may wish to follow it.

The consular service was more difficult, but the solution was found. By section 1753 of the Revised Statutes, the President was authorized "to prescribe such regulations for the admission of persons into the civil service of the United States as may best promote the efficiency thereof." Secretary Root took advantage of the act of Congress of April 5, 1906 "for the reorganization of the civil service." It was only necessary to bring the consular within the Civil Service, leaving, of course, the appointment of consuls-general and consuls in the Civil Service of the United States to be subject in the future as in the past to confirmation by the Senate.

President Roosevelt issued, under date of June 27, 1906, regulations governing consular appointments and promotions. Appointments from the outside were to be made upon examination; appointments within the service, according to the capacity shown in the performance of duties. As in the diplomatic, so in the consular service, the initiative taken by Secretary Root has found favour with his successors. Experience has pointed the way to modification, and today there is an efficient consular as well as diplomatic service. By an act "For the reorganization and improvement of the Foreign Service of the United States, and for other purposes," of May

24, 1924—known as the Rogers Act[60]—the two services constitute two branches of one and the same service, with power on the part of the President to transfer an efficient consul to the diplomatic service, and a diplomatic agent to the consular service, whenever such transfer should appear to be desirable.

It was one thing to have an efficient diplomatic and consular service appointed by examination and promoted by merit. It was more necessary to have the dispatches and documents coming from one or other of these services classified and arranged in such a way as to be at the disposal of those who were obliged to consult them.

There appears to be a distaste on the part of the political organizations to change their methods, and the documents reaching the State Department were kept, at the time of Secretary Root's appointment, much in the same way as they had been under Secretary Jefferson's tenure of the office.

Two notable changes had been made. The invention of the telegraph enabled the Secretary of State to communicate with the Secretary of War, for instance, in the same building, by dictating a telegram, calling a messenger from the telegraph office, and having the message delivered without causing either of the Secretaries to leave his desk to walk a few steps to the office of the other! This was the method in force when Mr. Root became Secretary of State. The installation of the telephone had made it possible for Secretary to communicate orally with Secretary, and even, in appropriate cases, with the outside world, without leaving his desk. It was used with caution, however. But today

telegrams are no longer necessary, for these officials meet face to face in their respective offices, or communicate by means of the telephone. Departments move, if slowly.

Secretary Root was not pleased with the arrangement and classification of official documents, which had been established in the first century of the Department's existence. He had been Secretary of War, and in that Department there had been devised and introduced an excellent system, due to the energy and ingenuity of General Ainsworth. With that system, by means of cards, it was possible to trace, for example, the entire career of an officer, from his entrance in the army to the date in question, and the papers relating to his career could be examined at a moment's notice.

Secretary Root desired to have such a system introduced in the State Department, so that by proper indexes giving the history of each document and a reference to its exact location, the information contained by each and every document could be placed at the Secretary's disposal with ease and dispatch.

An employee of the War Department familiar with the system was transferred to the Department of State, and a new system was introduced. Three employees of the State Department were detailed to the War Department to study the system. This was in 1906. Changes have been made and will no doubt continue to be made in order to render the system more efficacious, but it was Secretary Root who inaugurated the movement. Already some important series of documents since the beginning of the State Department have been indexed.

The first step is always the most important. Secretary

Root had already taken three steps in the reorganization of the Department of State. His predecessors were accustomed to look upon themselves as superior to the other members of the Cabinet; and while it might be proper for them to appear before congressional committees and discuss the requirements of their respective departments, and to give explanations, it was inconsistent with the dignity of the Secretary of State to appear before the appropriate committees of the Senate or House. And yet the Committee of Foreign Relations of the Senate could prevent action upon a treaty or convention by refusing to report it to the Senate; and the disapproval of the Committee of Foreign Affairs of the House would interfere with appropriations needed to carry out the terms of a treaty, which, under the Constitution, can only originate in the House.

A superficial reading of the proceedings of the Federal Convention of 1787 shows that it was the desire of the Congress to take charge of foreign affairs, but, recognizing that a numerous body could not negotiate so easily or rapidly as a single person, the initiative and the duty of conducting the negotiations were conferred upon the President, subjecting his action to the advice and consent of the Senate. The treaty-making proverb would be: "The President proposes, but the Senate disposes." How could the Senate be made to "dispose" as the Chief Executive desired? There was apparently no doubt in the early days of the Republic as to what the Constitution meant when it accorded the President the power "by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur." The President was ex-

pected to ask the advice of the Senate in advance of negotiations; and the advice of the Senate had, in advance, and acted upon, made the consent of the Senate a foregone conclusion.

Such was the early practice, but within thirty years of the establishment of the Government under the Constitution, the President fell into the bad habit of negotiating without the advice of the Senate, in the belief that the consent would be forthcoming when the treaties were laid before that body. Experience shows that the President must explain his course of action, and it would seem to be the part of wisdom to explain in advance, rather than to defend his conduct after the event, when foreign nations had been led to believe that the draft of a treaty or convention approved by the President was, in effect, already binding upon the nations. Some Secretaries made a point of conferring with individual members of the committee; others indulged in informal dinners given to its members; others did neither; and the public business suffered. The strained relations between Secretary Root's immediate predecessor and the Senate were common knowledge; indeed, common talk.

As Secretary of War Mr. Root had been accustomed to appear before committees. Later, upon assuming the Secretaryship of State, he took measures to have himself invited by the chairman of the Senate Committee on Foreign Relations, so that the committee and the Secretary of State were able to discuss in an informal manner not only pending matters, but matters which the Secretary felt might properly be the subject of treaty or convention. The aloofness between the Department of State and the Senate committee ceased;

friendly feeling replaced antagonism and distrust to such a degree, indeed, that he assured, by his personal appearance before the committee, its approval of all of the conventions of the Second Hague Peace Conference, and of his own treaties of arbitration. The action of Secretary Root in this regard has already established a tradition.

CHAPTER VII

CHINA AND JAPAN

IN the course of his official duties it fell to Secretary Root to discuss from time to time questions relating to China and the United States and to consider at length problems in which Japan and the United States were interested. On October 8, 1908 Secretary Root signed an arbitration convention with China, which was in due course ratified and proclaimed. It was one of the series which he was at that time negotiating, and it had the usual provisions and limitations. In addition to matters that might be fairly considered of a non-European character, he had one of importance at the time, and of larger importance for the future. It was in the nature of unfinished business.

As Secretary of War Mr. Root had charge of the policy resulting in the intervention of the powers to end the Boxer troubles,[61] and it was his good fortune to be able to take action then and thereafter pleasing to the Chinese Government in regard to the Boxer indemnity.

Both life and property were lost in the Boxer rebellion, and, as we know, at its conclusion the powers agreed, on September 7, 1901, upon a lump sum which China was to pay in satisfaction for the losses alleged to have been suffered by the powers whose interests were involved. Among these was the Government of the United States, which thought the indemnity asked

exorbitant, but felt that it would be a mistake to take less than its *pro rata*, in the belief, amounting almost to a certainty, that such action on its part would not lessen the liability of China, but would increase the shares of the other powers. Secretary Hay, therefore, on behalf of the Government, accepted the amount allotted to the United States. It was his intention (with which Mr. Root, as Secretary of War, was familiar, for he was associated in the negotiations at times, and during the illness of Secretary Hay conducted them) that the portion of the indemnity in excess of the just claims of American citizens should be remitted to China. A commission was appointed by the Government of the United States to pass upon these claims. Some that had been rejected were referred by Congress to the Court of Claims, awards being made in some cases. The payment of the balance of the indemnity was remitted.

It also appears that although no formal agreement was required of China for the remission on the part of the United States, an understanding was secured by Secretary Root to the effect that the money should be set aside as a special fund from which the expenses of Chinese students who should be sent by the Chinese Government to be educated in the United States were to be defrayed.

The indemnity amounted in round numbers to $333,000,000, which sum was payable to the powers under the protocol of September 7, 1901,[62] with interest at four per cent per annum, by instalments running through a period of thirty-nine years. The sum of $24,440,778.81 was allotted to the United States. Losses to American interests and property were estimated at

$12,479,657.05. The difference between these two sums the Government of the United States determined to renounce.[63]

In communicating this intention to remit the payment of the balance of the sums to which the United States was entitled under the agreement of 1901, Secretary Root, in his note of January 15, 1907, addressed to the Chinese minister in Washington, said:

> "It was from the first the intention of this Government at the proper time, when all claims should have been presented and all expenses should have been ascertained as fully as possible, to revise the estimate and account against which these payments were to be made, and, as proof of sincere friendship for China, to voluntarily release that country from its legal liability for all payments in excess of the sum which should prove to be necessary for actual indemnity to the United States and its citizens."

The remission was gratefully accepted by the Chinese Government, on behalf of which the Prince of Ch'ing, President of the Chinese Foreign Office, stated in a note, dated July 14, 1908, to the Honourable William Woodville Rockhill, then American minister to China:

> "The Imperial Government, wishing to give expression to the high value it places on the friendship of the United States, finds in its present action a favorable opportunity for doing so. Mindful of the desire recently expressed by the President of the United States to promote the coming of Chinese

students to the United States to take courses in the schools and higher educational institutions of the country, and convinced by the happy results of past experience of the great value to China of education in American schools, the Imperial Government has the honor to state that it is its intention to send henceforth yearly to the United States a considerable number of students there to receive their education. The board of foreign affairs will confer with the American minister in Peking concerning the elaboration of plans for the carrying out of the intention of the Imperial Government."

This is not an isolated case. Many years before, in 1863, the Strait of Shimonoseki, improperly closed to commerce, was opened by the joint action of France, Great Britain, Holland, and the United States. An indemnity, amounting to three million dollars, was exacted from Japan. "After some delay and great embarrassment, because of the poverty of the treasury," the debt was paid, each participating nation receiving an equal share. The action of the United States and the action of the other powers is thus stated by the late John W. Foster, in his *American Diplomacy in the Orient*:[64]

"The sum paid to the United States remained in the treasury unused for twenty years. The public conscience was troubled as to the justness of the exaction, and in 1883 by an act of Congress the amount received was returned to Japan, and accepted by that government 'as a strong manifestation of that spirit of justice and equity which has always animated the

United States in its relations with Japan.' None of the other three nations partaking of the indemnity have seen fit to follow this example."

In the case of the Boxer indemnity some of the other nations have seen fit to follow this example. In the treaties of peace ending the World War of 1914–1919 China was released from the obligation of further payments to Austria and Germany under the protocol of September 7, 1901. Japan has taken steps to remit its unpaid share; France, by a law of March 26, 1922, provided that its part should be used for the rehabilitation of the Banque Industrielle de Chine, which had become bankrupt. It has been rumoured that Italy and Belgium intend to remit the amounts due them. Russia, by a declaration annexed to the Sino-Russian agreement for the provisional management of the Chinese Eastern Railway, signed May 31, 1924, stated that the portion of the indemnity renounced by it should be used "to create a fund for the promotion of education among the Chinese people." The instalments paid by China to Great Britain since December 1922 have been deposited in a "suspense account" with the Hongkong and Shanghai Banking Corporation, and the payments made from this date to December 1945, when they will cease, are, according to the terms of the China Indemnity (Application) Act of the British Parliament, dated June 30, 1925, to be applied "to such educational or other purposes" as, "in the opinion of the Secretary of State for Foreign Affairs," are "beneficial to the mutual interests of His Majesty and of the Republic of China," and which the Secretary of State, after consultation with

the advisory committee, also provided for under the act, is to determine.[65]

In the summer of 1905, when Mr. Root was appointed Secretary of State, American relations with Japan were friendly; indeed, they were confidential. For the past century and more the relations with Russia also had been most friendly, and the autocratic empire had even used its good offices in behalf of the Western Republic.

During the Russo-Japanese War sentiment veered from Russia, our old friend, to Japan, for which we felt somewhat responsible, apparently on the ground that we had brought it into touch with the outside world through Commodore Perry's expedition and his treaty with the Island Empire. We were touched with pride at the success of Japan, which we generously ascribed to our initiative. But on this occasion our sympathy was due in large measure because we felt that an unequal contest had been forced upon Japan. The victorious march of Japanese armies towards the heart of Manchuria, the destruction, on May 27–29, 1905, of the Russian navy by the Japanese fleet in the Sea of Japan, sent a thrill through the American people. Japan, however, felt that the war had gone far enough—that it was an immense burden to carry on further, and that fortune, which had hitherto smiled, might frown. Therefore the Japanese Government asked the good offices of President Roosevelt for the negotiation of peace.[66]

The President extended his good offices, with the result that peace between the two great nations (for Japan was now recognized as one of the great powers) was signed at Portsmouth, New Hampshire, on September 5 (August 23), 1905. Although Secretary Hay had begun

the negotiations, Secretary Root was in office when the treaty was concluded.

Secretary Hay's protracted illness, resulting in his death at this time, and Mr. Root's assumption of the Secretaryship of State after the negotiations were well under way, caused President Roosevelt to be largely his own Secretary of State in the negotiations.[67]

The skies were unclouded and only confidence and good will appeared upon the horizon. Within a few months, however, the confidence and good will of half a century seemed in danger of being overcast.

The people of California had discriminated against the Japanese by a statute authorizing the board of school trustees "to exclude children of filthy or vicious habits, or children suffering from contagious or infectious diseases, and also to establish separate schools for Indian children and for children of Mongolian or Chinese descent,"[68] with the further provision that when these separate schools had been established, the Indian, Chinese, or Mongolian children should not be admitted into any other school. The board of education of San Francisco then appeared upon the scene with a resolution, under date of October 11, 1906, directing principals to send "all Chinese, Japanese, or Korean children to the Oriental Public School . . . on and after Monday, October 15, 1906."

Many Americans feel that our Indians have not been treated as they should have been; in any event, they have not been treated as equals. Chinese have been excluded by both statute and treaty; and the Japanese, falling under the designation "Mongolians," were to be treated as these two classes. Then, too, their inclusion

in the same sentence with "children of filthy or vicious habits, or children suffering from contagious or infectious diseases," was not calculated to allay irritation. The action of the California authorities was unacceptable, and the language in which it was couched was certainly as unfortunate as their action, perhaps even more so. It may be said in behalf of the authorities of the state that the children attending the public schools were for the most part of tender years, whereas the Japanese taking advantage of the schools were often adults, so that separation by age rather than by race might have appeared justifiable. Still, the fact that persons of foreign descent other than those mentioned in the statute were not excluded by its operation from the public schools was a discrimination which the Japanese did not expect at the hands of a friendly people, and which they were unwilling to accept.

President Roosevelt promptly requested the California authorities to come to Washington, and, in a series of interviews with them, the views of the "wiser counsel" prevailed and a crisis in the affairs of the two countries was happily averted.

No one felt more keenly than Secretary Root the impropriety of the action taken by the California authorities, and the discourteous way in which it had been accomplished. He set forth his views at length in an address that he delivered before the American Society of International Law at Washington on April 19, 1907, from which a quotation here and there may be made.[69] "There was," Mr. Root said, "no real question of power arising under this Japanese treaty [of 1894] and no question of state rights." He continued: "There were,

however, questions of policy, questions of national interests and of state interests, arising under the administration of the treaty and regarding the application of its provisions to the conditions existing on the Pacific coast." With a slight interruption, he proceeded: "These three interests could not be really in conflict; for the best interest of the whole country is always the true interest of every state and city, and the protection of the interests of every locality in the country is always the true interest of the nation." He added, however: "Such a concert of action with such a purpose was established by the conferences and communications between the national authorities and the authorities of California and San Francisco which followed the passage of the Board of Education resolution."

These statements were just in themselves, but they were by way of introduction. "There was one great and serious question underlying the whole subject," Mr. Root observed, "which made all questions of construction and of scope and of effect of the treaty itself . . . seem temporary and comparatively unimportant." What was this question? "What state of feeling would be created between the great body of the people of the United States and the great body of the people of Japan as a result of the treatment given to the Japanese in this country? . . . The great question which overshadowed all discussion of the treaty of 1894 was the question: Are the people of the United States about to break friendship with the people of Japan? . . . That question," he said in conclusion, "has been happily answered in the negative."

These phrases from Mr. Root's address show that

the preservation of friendship with Japan was to be the purpose of his policy in questions affecting that great country. His supreme triumph in that policy was what is called the "Gentleman's Agreement." Treaties that do not express the real sentiment of the countries concluding them are destined to be of short duration, whereas unwritten agreements will last as long as the parties in interest care to observe them.

The Japanese question had come to the surface. The people on the Pacific Coast were apprehensive lest large numbers of Japanese should settle among them. The question was delicate alike for Japan and the United States.

It happened that Japan was recovering from a war which had been a great drain upon its resources, and that it needed its people in the Island Empire and its outlying possessions. Therefore Japan preferred to keep its people where they could be of service in the development of the Empire; but it was unwilling that they should be discriminated against should they go to foreign parts. Japan was, however, willing to prevent them from going abroad. A solution was found for the problem by negotiators—in good will—by the understanding that Japan, by its own action, should refuse to give its subjects Japanese passports, and that the United States would not allow them to enter without passports from Japan. This was the "Gentleman's Agreement" between Japan on the one hand and the United States on the other. Secretary Root represented the United States on this occasion.

Japan could prevent its subjects from coming directly to the United States. This would be an internal regula-

tion, by virtue of its own sovereignty, not the dictation of a foreign sovereign. But it might happen that passports were given to American possessions, from which their holders might attempt to enter the United States. These matters were taken care of in the Immigration Act of February 20, 1907, putting into effect the Gentleman's Agreement without mentioning the Japanese by name: "Whenever the President shall be satisfied that passports issued by any foreign government to its citizens to go to any country other than the United States or to any insular possession of the United States or to the Canal Zone are being used for the purpose of enabling the holders to come to the continental territory of the United States to the detriment of labor conditions therein, the President may refuse to permit such citizens of the country issuing such passports to enter the continental territory of the United States from such other country or from such insular possessions or from the Canal Zone."

President Roosevelt issued an executive order, on March 14, 1907, rendering the provisions of the act effective:

> "And whereas, upon sufficient evidence produced before me by the Department of Commerce and Labor, I am satisfied that passports issued by the government of Japan to citizens of that country or Korea and who are laborers, skilled or unskilled, to go to Mexico, to Canada and to Hawaii, are being used for the purpose of enabling the holders thereof to come to the continental territory of the United States to the detriment of labor conditions therein;

"I hereby order that such citizens of Japan or Korea, to wit, Japanese or Korean laborers, skilled and unskilled, who have received passports to go to Mexico, Canada or Hawaii, and come therefrom, be refused permission to enter the continental territory of the United States."

These measures were acceptable to Japan and to the United States. The inclusion of Koreans and Korea with Japanese and Japan must have had, intentionally or otherwise, an implication which at that time could only have been pleasing to Japan.

That the disputes with Japan were to be settled peaceably is further evidenced by the arbitration convention of May 5, 1908, which Secretary Root negotiated with the Japanese ambassador. It is one of the series of twenty-five. The judicial questions to be submitted were strictly limited, as in the other twenty-four Root arbitration treaties, by the clause that they "do not affect the vital interests, the independence, or the honor of the two Contracting States, and do not concern the interests of third parties."

A similar treaty was concluded with China on October 8 of the same year, so that the relations of the United States with these two countries were placed upon a plane of equality, and the provision regarding third parties would apply to each in an appropriate case.

The capping was put to the corner-stone, so to speak, of friendly Japanese-American relations, by the notes of November 30, 1908, exchanged between Baron Kogoro Takahira, then Japanese ambassador to the United States, and Secretary Root.[70] The intentions of Japan

were stated in the note addressed to Secretary Root, who dated his pre-arranged reply on the same day. It says in part:

"I am happy to be able to confirm to your excellency, on behalf of the United States, the declaration of the two Governments embodied in the following words:

"1. It is the wish of the two Governments to encourage the free and peaceful development of their commerce on the Pacific Ocean.

"2. The policy of both Governments, uninfluenced by any aggressive tendencies, is directed to the maintenance of the existing status quo in the region above mentioned, and to the defense of the principle of equal opportunity for commerce and industry in China.

"3. They are accordingly firmly resolved reciprocally to respect the territorial possessions belonging to each other in said region.

"4. They are also determined to preserve the common interests of all powers in China by supporting by all pacific means at their disposal the independence and integrity of China and the principle of equal opportunity for commerce and industry of all nations in that Empire.

"5. Should any event occur threatening the status quo as above described or the principle of equal opportunity as above defined, it remains for the two Governments to communicate with each other in order to arrive at an understanding as to what measures they may consider it useful to take."

From the Japanese note it will be observed that the views there expressed were the result of interviews between the ambassador and the Secretary of State, but that the initiative was courteously made to appear to come from Japan.

CHAPTER VIII

CENTRAL AMERICAN PEACE CONFERENCE OF 1907

IT may be said that Secretary Root throughout his administration made a specialty of Latin-American affairs, without, however, overlooking the interests of the United States in other parts of the world. The situation in Central America had been unsettled for some time, and on the eve of Secretary Root's departure for South America war had broken out. A revolt against the Government of Guatemala began in that country, and hostilities spread rapidly. Salvador was accused of helping the rebels, and Honduras, the geographical position of which easily involves it in Central American controversies, was invaded from Guatemala. It looked as if the war might spread. Fortunately this was averted.

Secretary Root had a definite policy in dealing with the Latin-American countries. He knew that action by the United States might be looked upon with apprehension, but if taken in conjunction with Mexico (at that time enjoying in the world at large the greatest prestige of any of the Latin-American republics), and with Mexico playing the leading role, the proposed action would obtain a fair hearing. Therefore, Mexico and the United States offered their good offices, which were accepted by the belligerents on July 16, 1906. Two days later an armistice was declared, and on the 20th of the month an agreement was reached by Guatemala, San

Salvador, and Honduras by which peace was to be established, treaties concluded, and their future disputes arbitrated by the Presidents of Mexico and the United States.

From the 15th to the 25th of September the representatives of all of the Central American republics met at San José, under the presidency of Luís Anderson, then Minister of Foreign Affairs for Costa Rica. A general treaty of peace was signed, on September 25. Other treaties concluded the same day provided for the settlement of difficulties by the Presidents of the United States and Mexico as umpires; native treatment to one another's citizens residing within their borders; extradition of criminals; and the creation of a bureau to be located in the city of Guatemala. A convention of September 24, 1906 provided for the establishment of a Central American Pedagogical Institute.[71]

Central America is composed of five republics. Under the Spanish regime they had formed part of Guatemala. After independence was achieved, they separated into five states. They have always felt the ties of race, language, religion, and institutions. They have made efforts from time to time to unite into a single Central American republic, but the movement has not yet resulted in a permanent union.

Mr. Anderson has summed up the situation in a few words: "Our countries are not war-fearing countries, and the only part they have played in the several wars which from independence to our day have stained the Central American soil with blood is that of dying like heroes—bravely, modestly—for a cause which they have never understood." And he adds, what a foreigner would

hesitate to say: "The Central American wars have never been wars between nations: they have been wars between governments."[72] Unfortunately, political parties with principles and platforms do not obtain among them. Their parties are personal: and loyalty to political leaders with personal ambitions has too often produced revolts and bloodshed.

The meeting of their representatives in Costa Rica and the measures there taken did not put an end to the disturbances. Mexico and the United States offered their good offices, which were accepted, and the representatives of the Central American republics in Washington, in a protocol of September 17, 1907, agreed to the meeting of a peace conference in Washington, in November and December of that year, in the International Bureau of the American Republics. It was further agreed that although Mexico and the United States should not be contracting parties to any agreements to be reached in the proposed conference, a representative from each of the two countries should attend the sessions and lend, as it were, the moral sanction of Mexico and the United States to the understandings which should be reached. Mr. Enrique Clay Creel, Mexican ambassador to the United States, and William I. Buchanan, who had been our minister to the Argentine Republic and to Panama and a delegate to the Second Hague Peace Conference, which had just adjourned, represented Mexico and the United States respectively.

The first regular session of the conference was held on November 14. It was formally opened by Secretary Root, in an address of welcome, of acknowledgment, and of friendly and disinterested suggestion:

"The people of the United States are sincere believers in the principles that you are seeking to apply to the conduct of your international affairs in Central America. They sincerely desire the triumph and the control of the principles of liberty and order everywhere in the world. They especially desire that the blessings which follow the control of those principles may be enjoyed by all the people of our sister republics on the Western Hemisphere, and we further believe that it will be, from the most selfish point of view, for our interests to have peaceful, prosperous, and progressive republics in Central America."

Adverting to the many attempts, and as many failures, to end differences by written instruments, Secretary Root stated that time was a necessary element to political development, and that "in the long course of time, through successive steps of failure, through the accompanying education of your people, . . . success will be attained in securing unity and progress in other countries of the New Hemisphere." Assuming the role of a benevolent counsellor, he continued: "I will venture to observe that the all-important thing for you to accomplish is that while you enter into agreements which will, I am sure, be framed in consonance with the most peaceful aspirations and the most rigid sense of justice, you shall devise also some practical methods under which it will be possible to secure the performance of those agreements." Secretary Root knew, of his own experience, how easy the promise may be given, and how difficult it is to be kept, in the relations of nations. He ended his words of welcome with a question, an answer, and a warning:

"Why should you not live in peace and harmony? You are one people in fact, your citizenship is interchangeable—your race, your religion, your customs, your laws, your lineage, your consanguinity and relations, your social relations, your sympathies, your aspirations, and your hopes for the future are the same.

"It can be nothing but the ambition of individuals who care more for their selfish purposes than for the good of their country that can prevent the people of the Central American states from living together in peace and unity."

Mr. Luís Anderson was elected president of the conference, of which fourteen sessions were held between November 14 and December 20.[73] On the latter date the conference adjourned, with eight conventions to its credit; a general treaty of peace and amity; an additional convention to the general treaty; conventions for the establishment of a Central American court of justice; extradition; the establishment of an International Central American Bureau; the establishment of a Central American Pedagogical Institute; on future conferences (monetary); and on communications. Of these accords, only one need be examined. It appeared best calculated at the time to bring about gradually the union of the Central American republics, where direct agreements for that purpose had failed.

Secretary Root had instructed the American delegation to the Hague Conference to propose an international court of justice. It had been proposed and a draft convention adopted looking to its constitution through diplomatic channels. Secretary Root returned to the

charge, as it were, and sought to have a Central American court of justice established, whereby the disputes between the republics could be submitted to judicial settlement by a court of their own creation, and determined by the principles of international law, before the controversies had become embittered to such an extent that war might be the consequence. His proposal was adopted. A convention was signed on December 20, 1907, and ratified in 1908, and the court itself was established in Costa Rica, on May 25, 1908.

The preamble states the court to be "for the purpose of efficaciously guaranteeing their rights and maintaining peace and harmony inalterably in their relations, without being obliged to resort in any case to the employment of force." Its jurisdiction was to be very large, the contracting parties binding themselves to submit all controversies between them which could not be settled through diplomatic channels. In addition, an individual might lay his case before the court, if it was in violation of treaties or conventions of an international nature. The individual could take this action without the consent of his government, but he would have to show that the remedies of the country against which the suit was brought had been exhausted, or that there had been a denial of justice. By agreement of the contracting republics, any question might be submitted to the court, whether it involved its government or citizens. Even this was not all. By special agreement with one of the Central American governments, a foreign state could submit its controversy of an international character against the Central American member of the court. The tribunal was Central American and international.

The court was to consist of five justices, one to be appointed by each of the contracting powers. They were to possess "the qualifications which the laws of each country prescribe for the exercise of high judicial office, and who enjoy the highest consideration, both because of their moral character and their professional ability." There were to be five deputy justices possessing the same qualifications, who might be called upon whenever it was necessary to supply the requisite quorum. The court was to determine its jurisdiction and interpret the treaties and conventions applicable to the case. A judgment to be valid required the concurrence of at least three of the justices. In all matters of fact the justices of the court were to exercise their free judgment. In matters of law they were to be governed by principles of international law, and the final judgment was to cover each of the points in litigation. How were the judgments to be enforced? The matter is so important that Article XXV, dealing with it, should be quoted:

> "The judgments of the Court shall be communicated to the five Governments of the contracting Republics. The interested parties solemnly bind themselves to submit to said judgments, and all agree to lend all moral support that may be necessary in order that they may be properly fulfilled, thereby constituting a real and positive guarantee of respect for this Convention and for the Central American Court of Justice."

The court was not destined to be a paper court. The following cases were actually laid before it, and decisions rendered:

Honduras *v.* Salvador and Guatemala (December 19, 1908)[74]
Diaz *v.* Guatemala (March 6, 1909)[75]
Salvador Cerda *v.* Costa Rica (October 14, 1911)[76]
Felipe Molina Larios *v.* Honduras (December 10, 1913)[77]
Alejandro Bermúdez Núñez *v.* Costa Rica (April 7, 1914)[78]
Case regarding the election of the President of Costa Rica (July 3, 1914)[79]
Costa Rica *v.* Nicaragua (September 30, 1916)[80]
Salvador *v.* Nicaragua (March 9, 1917)[81]

Unfortunately, the convention, concluded on December 20, 1907, for a period of ten years, was not renewed at its expiration. On March 24, 1916 Costa Rica resorted to the court in order to secure the interpretation of a treaty of April 15, 1858 with Nicaragua, by which treaty each of the contracting parties agreed to consult the other before entering into agreement with a third party for the digging of a canal through its territory. Nicaragua, however, entered into such an agreement on February 8, 1913, with the United States, without consulting Costa Rica, and refused to submit the controversy to the jurisdiction of the court. President Wilson's Administration does not appear to have advised Nicaragua to permit the matter, in which the Government of the United States was interested, to be decided by the Central American court of justice, although this court was an American creation and existed under its moral support; and an American ideal, like a falling star, dropped out of sight.[82]

Secretary Root deserved to succeed with any international court of justice. He did—thirteen years later, in 1920, at The Hague. On that occasion, the Central American court was mentioned. Three years later a delegate of Costa Rica to the Fifth Conference of the American Republics, meeting in Santiago, Chile, referred to the Central American court in proposing a larger court for the twenty-one American republics. The seed planted by Secretary Root has had a way of growing and bringing forth abundant fruit.

CHAPTER IX

OTHER CANADIAN QUESTIONS

THROUGHOUT the entire extent of its northern boundary the United States has for its good neighbour the Dominion of Canada. If such had been the case in Europe, boundary disputes would have been sure to arise and give trouble. They have arisen in the relations between Canada and the United States, but they have not caused trouble. Each of the two countries has confidence in the intentions of the other. They have been animated for more than a century by good will towards each other; and by the Rush-Bagot Agreement of 1817 between Great Britain and the United States the Great Lakes and the frontier were disarmed.

It would doubtless be strange news to many if not most Americans that the boundary lines of the treaty of September 3, 1783 between Great Britain and the United States, by which the independence of the United States was recognized, had not been finally determined when Mr. Root assumed the Secretaryship of State. In some places they had been marked—"monumented" is the technical expression—and the monuments effaced by time. In many cases the lines had been imperfectly drawn upon the maps; in others the boundary was still an imaginary line.

The Alaskan boundary dispute was a warning. Secretary Root took up the question of boundaries from the Atlantic to the Pacific and on April 11, 1908 concluded

for this purpose a treaty with the British ambassador, then James Bryce. The treaty divides the boundaries into eight sections. An article is devoted to each, which gives the original provisions of the treaty of 1783 and its history. It provides for the appointment of a commissioner of each of the contracting parties, who should be an expert geographer or surveyor, and, in appropriate cases, for an arbitration if they could not agree. The boundary line was to be determined where it had not been determined, monuments were to be erected, and appropriate maps prepared. As the result of Secretary Root's initiative and Mr. Bryce's interested cooperation, Canada and the United States were soon to have a definite boundary, and the title to some territory in dispute was to be settled in favour of one or the other country.

In the treaty of September 3, 1783 with Great Britain, recognizing the independence of the United States, the eastern boundary of Maine was to be the St. Croix River and the islands in the Passamaquoddy Bay, into which it flows, except such as were then or had been within the limits of Nova Scotia.

There were doubts as to the river that the contracting parties meant under the name St. Croix, and as to the islands in the bay. Under Article V of Jay's Treaty of November 19, 1794, commissioners of Great Britain and the United States were to find the source of the elusive river. In this quest they were successful. They certified their findings over their hands and seals under date of October 25, 1798.

But what of the islands in Passamaquoddy Bay? In the Treaty of Ghent, of December 24, 1814, ending the

war between Great Britain and the United States, Article IV referred the matter to commissioners to be appointed in accordance with its terms. Under date of November 24, 1817 they presented their report indicating ownership of the islands. From time to time, however, questions arose, with the result that Secretary Root found it necessary to devote the first article of the treaty concerning the Canadian international boundary, of April 11, 1908, to the boundary through Passamaquoddy Bay. In the proceedings under the article, the Governments were unable to agree; but the matter was finally laid to rest by the treaty of May 21, 1910, concluded by Secretary Knox during President Taft's Administration, which accorded to the United States Pope's Folly Island, title to which had been claimed by the United States, but disallowed by Great Britain, acting in behalf of Canada.

Boundary disputes might almost be considered a "product" of Maine, but apparently they have all been settled, some hundred and twenty-seven years after the recognition of American independence.[83]

The settlement of Canadian questions has been more protracted than difficult, because our northern neighbours have insisted that all outstanding questions should be taken up and adjusted, whereas the Government of the United States has been in favour of settling one at a time. Secretary Root was able to persuade the Canadian authorities to discuss and get out of the way questions that seemed to him, and, upon reflection, to them, to be the most important at the time he held office. The settlement of the rights of American fishermen in Newfoundland and Canadian waters, already described, was

perhaps Secretary Root's most spectacular triumph in the settlement of Canadian questions; the others, however, were hardly less important.

A treaty concluded April 11, 1908 with Ambassador Bryce regulated the fisheries in American and Canadian waters, each of the contracting parties "recognizing the desirability of uniform and effective measures for the protection, preservation, and propagation of food fishes in the waters contiguous to the United States and the Dominion of Canada." An International Fisheries Commission, "consisting of one person named by each Government," was authorized to examine the questions and within six months after their appointment "to prepare a system of uniform and common International Regulations for the protection and preservation of the food fishes in each of the waters prescribed in Article IV of this Convention" and to determine the seasons during which fishing should be permissible and the methods by which it might be carried on. It was hoped that it would be permanent.

It is true that the state governments might, with the permission of Congress, have undertaken these negotiations, or that Canada and the states in question might have passed uniform statutes; but regulation by treaty was so much more expeditious and effective that the individual states made no objection to regulation by the federal Government of a matter which was admittedly within their competence.

There had always been a question as to the right of an officer of the United States or Canada to convey a prisoner through the territory of the other. This is an important matter. The authority needed for this phase

of the administration of justice was granted by the treaty concluded May 18, 1908. This treaty likewise accorded to the high contracting parties the right to enter the waters of the other to render aid in case of wreckage and salvage.

Secretary Root foresaw that the Canadian treaties might give rise to disputes, and his purpose was to create machinery of a permanent nature by which they could be settled when and as they arose, without embittering the relations of the two countries. Therefore, on January 11, 1909, within but a few days of the date of relinquishing the secretaryship, he concluded a treaty with Mr. Bryce concerning the boundary waters. An extract from the preamble declares the contracting parties to be "equally desirous to prevent disputes regarding the use of boundary waters and to settle all questions which are now pending between the United States and the Dominion of Canada involving the rights, obligations, or interests of either in relation to the other or to the inhabitants of the other, along their common frontier, and to make provision for the adjustment and settlement of all such questions as may hereafter arise." For this purpose an international joint commission was to be appointed, composed of six members, of whom three were to be chosen by the King of Great Britain, "on the recommendation of the Governor in Council of the Dominion of Canada," and three by the President of the United States.

The commission was to enter upon its labours promptly after appointment and was to be "subject at all times to special call or direction by the two Governments." There was to be a Canadian secretary and an American

secretary, and a majority of the commissioners was to decide questions that it was authorized to entertain by the treaty or by subsequent authorization of the contracting parties. The treaty was to remain in force for a period of five years and to continue "until terminated by twelve months' written notice given by either High Contracting Party to the other." It is still in force and frequently and fruitfully resorted to.

CHAPTER X

THE ELDER STATESMAN

AFTER having served as Secretary of State for a little over three years and a half Secretary Root resigned, on January 27, 1909, expressing pleasure that he was to be succeeded by Robert Bacon, who as his Assistant Secretary had been not only his understudy, but, it might be said, his *alter ego*.

His separation from the Department of State did not mean his retirement to private life. He had resigned in order to have a few weeks of much-needed rest, before entering upon his duties as United States Senator from New York, to which office he had been elected the previous November. He took the oath of office on March 4, 1909 and served for the full period of six years, his term ending on March 4, 1915. He declined to be a candidate for re-election. But the Government and the people of the United States were to have his services as an "elder statesman."

He opposed the exemption of American coastwise shipping from the payment of tolls through the Panama Canal in two carefully prepared speeches delivered in the Senate, on "The Obligations of the United States as to Panama Canal Tolls," January 21, 1913, and on "Panama Canal Tolls," May 21, 1914.[84] His view was adopted. On another occasion, in a measured address before the Senate, May 21, 1914, on "The Mexican Resolution,"[85] Mr. Root analysed the grounds upon

which the United States might intervene in Mexico. These grounds were the protection of American life and American property in accordance with the principles of international law and the practice of nations. His views were accepted in principle.

On the floor of the Senate Mr. Root insisted that as long as the United States remained neutral, its Government should comply with the highest standards of neutrality and should not purchase the German ships then lying in American harbours, which would be captured if they took to the high seas. His contentions prevailed.[86]

During his term as Senator, Mr. Root served as president of the convention of the state of New York for the revision of its constitution. Through his wisdom and energy a new constitution was devised in the summer of 1914. Submitted to the voters, it was rejected, but its salient provisions are coming into effect through legislation.[87]

In 1917, he was asked by President Wilson to head an American mission to Russia in order to express the gratification of the people of the United States over the replacement of autocratic government by a provisional and liberal regime. The United States had just entered the war, and Mr. Root in his capacity as ambassador extraordinary was to consult the Russian authorities as to the co-operation of the two Governments in its prosecution. The overthrow of the provisional Government by the Bolshevists a few months later ended the liberal regime and the proposed co-operation of the two countries.[88]

During President Harding's Administration Mr. Root was selected as one of the delegates of the United States

to the Conference for the Limitation of Armament and Pacific Questions, which met in Washington, November 11, 1921–February 6, 1922. His large and varied experience is evidenced in the agreements concerning China, the subjection of submarine warfare to the rules governing surface craft, and the banning of the use of poisonous gases.[89]

In a purely private capacity, and wholly disassociated from the Government in any of its branches, Mr. Root had devoted much of his attention, from the early days of his Secretaryship of State, to the American Society of International Law. Invited in 1906 to accept its presidency, he presided, until the time of his resignation in 1924, at every session except one. At that time the state of his health made it necessary for him to be in California. At the urgent request of the members of the society, for seventeen years Mr. Root allowed himself to be annually elected its president, but finally, much to their regret, he felt obliged to refuse further election to the presidency. His annual addresses have been regarded abroad, as well as at home, as masterpieces of exposition and as largely constituting the newer law of nations.[90]

Not the least of Mr. Root's services to the world at large were rendered also in his private capacity as president of the Carnegie Endowment for International Peace (1910–1924). Peace, in his opinion, is to come through education of the mass of the people in democratic countries, in foreign affairs, which more and more they are to control. It is to be a slow but continuous process. Governments are sufficiently conscious of their rights. "We are dealing with aptitudes and impulses

firmly established in human nature through the development of thousands of years," he said in his letter of instructions to Mr. Robert Bacon, his successor in the Secretaryship of State, on the eve of the latter's departure for South America on a mission of good will from the Carnegie Endowment. And he continued: "The utmost that any one generation can hope to do is to promote the gradual change of standards of conduct. All estimates of such a work and its results must be in terms not of individual human life, but in terms of the long life of nations. Inconspicuous as are the immediate results, however, there can be no nobler object of human effort than to exercise an influence upon the tendencies of the race, so that it shall move, however slowly, in the direction of civilization and humanity and away from senseless brutality."[91]

Upon Mr. Root's return to the United States after successfully arguing the fisheries case, in the summer of 1910, President Taft appointed him a member of the Permanent Court of International Arbitration. This court was the creation of the First Peace Conference, which met at The Hague in 1899. It was not really a court; it was rather a list of persons willing and able to act as arbiters. Three years later he was appointed umpire of the tribunal of arbitration to pass upon the claims of Great Britain, France, and Spain against Portugal for expropriated religious properties. The outbreak of the World War prevented the meeting of the tribunal. It was held, however, in 1920, and on September 2 of that year the French and British awards, and on September 4 the Spanish awards, were rendered to the satisfaction of all parties.[92]

It had been the hope of many that Mr. Root should be appointed a delegate of the United States to the Paris Peace Conference of 1919. He was not selected by President Wilson, but during the proceedings of the conference his advice was asked by the Department of State and followed by the American negotiators. This was especially true with Articles XIV and XV of the Covenant of the League of Nations.[93]

In the summer of 1920 Mr. Root was a member of the advisory committee of ten jurists appointed by the League of Nations to devise a plan for a permanent court of international justice. Without discourtesy to his colleagues, it may be said that his presence enabled the committee to draft a plan, and his proposal of a method of appointing the judges (a question that had hitherto proved to be an obstacle in the creation of the court) was found acceptable to his colleagues, to the Council, and to the Assembly of the League of Nations. Therefore he had the great satisfaction of creating in 1920 the Permanent Court of International Justice, which he had proposed in 1907. On December 28,1926 he was most appropriately given the award of the Woodrow Wilson Foundation, of twenty-five thousand dollars, "in recognition of his services to humanity and the cause of peace through justice in helping to create the Permanent Court of International Justice." He already had been awarded the Nobel Peace Prize for 1912.[94]

The late Mr. Alvey A. Adee, who had entered the diplomatic service of the United States in the early seventies and had lived in Washington for many years, holding the important post of Second Assistant Secretary of State, was accustomed to relate to his intimate

friends incidents of his long and varied career, now and then touching upon the distinguished persons with whom it had been his good fortune to collaborate. He was secretary of legation to Caleb Cushing when that able American lawyer was minister to Spain. On more than one occasion Mr. Adee was heard to say that Cushing had the most powerful of minds and an enormous capacity for the dispatch of business. Mr. Adee had the good fortune to be connected with the American legation when James Russell Lowell was American minister to Madrid, and his ineffable charm was often a topic upon which Mr. Adee allowed himself to dwell. Later, when he returned to Washington and served in the Department of State, he came into contact with two Secretaries of State who suggested his friends of Spanish days—Richard Olney, by his powerful intellect and capacity for business, and John Hay, by his indescribable charm.

Those who were privileged to associate with Mr. Root during his Secretaryship of State found united in his person the qualities of Cushing and Lowell, of Olney and Hay.

At the age of eighty-three Mr. Root stands as preeminent in the domain of international law, as at the American bar. As a public speaker he has achieved immense distinction, and the eight volumes of his addresses testify to the demand for him in that capacity. As a statesman he is considered by many of his countrymen as on a plane with the founders of the Republic, and as uniting in his person in varied degrees the knowledge of human nature so marked in Franklin, the wisdom and caution of Washington, the administrative genius

of Hamilton, and the judgment of Marshall. Not a few of his countrymen also consider that as Secretary of State there is no one who has held that office to be compared with him. His taste in the fine arts, and his interest in literature, are such as would have made of him their patron in other ages, and in our day they have made him the associate and friend of artists and men of letters.

An outstanding figure of his generation, it is the common belief of his countrymen that Elihu Root is destined to leave behind him the memory of a great and a rounded American.

ROBERT BACON

SECRETARY OF STATE

JANUARY 27, 1909, TO MARCH 5, 1909

BY

JAMES BROWN SCOTT

FORMER SOLICITOR OF THE DEPARTMENT OF STATE

SECRETARY OF THE CARNEGIE ENDOWMENT

FOR INTERNATIONAL PEACE

ROBERT BACON

COURTESY OF THE KEYSTONE VIEW COMPANY

Robert Bean

ROBERT BACON

ROBERT BACON, of New York, was appointed Secretary of State by President Roosevelt, in succession to Secretary Root, to serve during the unexpired term of the Roosevelt Administration. He took the oath of office on January 27, 1909, and performed the duties of Secretary until the morning of March 5 of that year, when his successor entered upon the secretaryship.

The Bacon family had long been in America. The immediate ancestor had settled among the Pilgrims in 1639, at Barnstable, and the Bacons intermarried with the descendants of the Pilgrims, so that the blood of two of the *Mayflower* passengers coursed through his veins. The Bacons were thus deeply rooted in Massachusetts, and Robert Bacon himself wandered only as far as New York, from the home of his ancestors. They were marked by two characteristics: a devotion to New England, or, rather, the part of New England in which they had taken root and settled, and to the old England which they had, indeed, left, but to whose traditions they were ever loyal. The family had been transplanted to New England soil, but the branches were of an old England trunk.

The Bacons possessed the confidence of their fellow townsmen. They were called upon to serve in various capacities, and during generations they filled elective positions in the neighbourhood, with an occasional appointment from the colonial authorities. The idea of

service seems to have been ingrained, and it was inherited by Robert Bacon, if such a thing is inheritable.

Robert's grandfather, Daniel C. Bacon, was the first of the family to take to the sea, as was the wont with New Englanders of the time, and, specializing in the Chinese waters, he acquired a competence. Daniel's son, William B. Bacon, early made a voyage in one of his father's ships, but most of his sea service was on land, engaged in business with his brother, in which both prospered. He had graduated from Harvard College, and to this institution he sent his son, Robert.

The son was fortunate in having Theodore Roosevelt as a class-mate. They became intimate in college and remained friends throughout life. Separated by their different activities after leaving Harvard, their friendship remained intact, and it was through President Roosevelt that Robert Bacon entered upon his career of public service.

He began with a sound mind, and he kept his body sound by exercise. A fair, indeed, a good student at college, he was a better athlete, specializing in sports so various as baseball, football, rowing, tennis, and lacrosse. He boxed with the future President of the United States, and later in life he was very fond of polo. In Washington he used to play tennis on the White House grounds with his presidential class-mate.

Upon leaving college (he was only nineteen), Robert Bacon made a tour of the world, to see it with his own eyes and to know large portions of it at first hand. He saw America first, as he proceeded westward to San Francisco; then he went on to Japan, China, India,

Egypt, and Europe, to old England, and then to New England, to begin a distinguished career.

He entered the banking firm of Lee, Higginson & Company, of Boston, and later, in New York, became associated with J. P. Morgan, who, rumour has it, fell in love with him on first sight, as, indeed, everybody is said to have done. As the junior member of the firm he was Mr. Morgan's constant companion. He associated the junior member with the great loan to the Government of nearly sixty-five million dollars in gold, made during the Cleveland Administration, which maintained a balance in the Treasury when it seemed to be making for bankruptcy because of the panic of that year. Large business experience he had, naturally. During Mr. Morgan's absence Mr. Bacon took part in the transactions culminating in the Northern Securities Company; and he assumed an important role in the negotiations that led to the formation of the United States Steel Corporation. He was thus familiar with all of the details of international and domestic finance, and he had on more than one occasion come into contact with the Department of State, when he was asked by Secretary Root, at President Roosevelt's suggestion, to become Assistant Secretary of State. He accepted the offer, taking the oath of office on September 5, 1905, and serving throughout Mr. Root's entire secretaryship. When he himself was appointed Secretary of State by President Roosevelt, he had graduated from the best school of foreign affairs then in existence.

During Secretary Root's prolonged absence, owing to his presence at the Third Pan-American Conference in 1906, at Rio de Janeiro, Mr. Bacon was Acting Secretary

of State and as such was obliged to handle the delicate and changing situation in the Central American states resulting in their agreement to submit their differences to the arbitration of President Diaz of Mexico and President Roosevelt of the United States. The ultimate result was to be the Central American Conference in Washington, upon the invitation of Secretary Root, and the series of conventions concluded at that gathering in the latter half of 1907.

During the same period he was, as Acting Secretary of State, immersed in the affairs of Cuba. Tomás Estrada Palma, the distinguished Cuban patriot, had been chosen first President of the young Republic. As is the wont of presidents, he "consented" to run for re-election, and, as frequently happens in such cases, his partisans were zealous (over-zealous, according to their opponents) in securing his election. On the face of the returns, President Palma, the Moderate candidate, was elected. The partisans of General José Miguel Gómez, the Liberal candidate, claimed that he was legally elected, but was illegally deprived of the office. The result was an appeal to arms in August 1906, and Cuba was exposed to the dangers, not merely of an uprising—which had already taken place—but of being plunged into the throes of a civil war.

This was obviously a state of affairs which might cause the United States, in accordance with the terms of the treaty of May 22, 1903, which incorporated the terms of the Platt Amendment, to intervene in order to maintain a government adequate to protect life and property in Cuba. President Roosevelt, who had served in the Spanish-American War and taken a distinguished part

in the operations of the American army in Cuba, wished to avoid intervention if he could possibly do so; but President Palma preferred intervention to the triumph of his political enemies. He refused to accept the Presidency as a compromise, insisting upon it as by right of election. He likewise refused the suggestion that new elections be held for the other offices, on the ground that such action questioned the legality of those already held. On September 14 President Roosevelt addressed an open letter to Mr. Quesada, the Cuban minister at Washington, begging him to urge upon his Government the necessity of its maintaining law and order, but, notwithstanding protests from the Government of the United States, on September 28 President Palma resigned his office, thus leaving Cuba without a government.

The United States thereupon intervened. Secretary of War Taft and Acting Secretary of State Bacon had been sent to Cuba on September 16 as "special representatives" of the Government of the United States to assist the Cubans in restoring peace. The day after President Palma's resignation, Secretary Taft proclaimed himself Provisional Governor of Cuba and took over the affairs of the island. He, in turn, was succeeded, on October 13, 1906, by Charles E. Magoon, then minister of the United States to Panama, who was appointed Governor. New elections were held, and the Liberals were victorious. Various reforms, including that of the election law, were introduced, and on January 28, 1909 the American troops withdrew for a second time from the island. Governor Magoon turned over the government to General Gómez, the successful Liberal candidate, and Cuba again assumed control of its destinies.[1]

Mr. Bacon had been opposed to the intervention of the United States, and he was opposed to the method of adjusting the difficulties. He feared that intervention might become a habit and the independence of Cuba be threatened. He would have preferred to leave Cuba at this time, with the moral support of the United States, to settle its own affairs, without the intervention of the United States, although a treaty between the two countries accorded that right. Mr. Bacon's attitude appears to have been understood at the time. A recent and well-informed writer quotes Martínez Ortiz's "comments upon his 'reserve' and 'discretion' and the fact that 'he did not let his thoughts appear,' noting also that 'one hardly ever heard a word from him, except when he was answering some question of Mr. Taft.'"[2]

These matters were handled by Mr. Bacon as Acting Secretary of State and were sufficient to prove what he might have done had he had a longer tenure of office than the closing days of a closing administration. He had but thirty-seven days in all—busy days, to be sure, but for the most part devoted to the unfinished business that his illustrious predecessor had left pending at the moment of his departure.

A very difficult matter that he handled was the tripartite treaty of January 9, 1909, to which Colombia, Panama, and the United States were signatories. We have seen that Secretary Root had concluded the three treaties, which were to be considered and ratified as one and the same international instrument. One was between Panama and the United States, one between Cuba and the United States, and a third between Colombia and Panama. They were meant to settle, in their

entirety, the differences that had arisen out of the Panama incident.

A phrase from the preamble of each states the purpose of each. In the treaty between the United States and Panama the contracting countries describe themselves as "desiring to facilitate the construction, maintenance, and operation of the interoceanic canal across the Isthmus of Panama and to promote a good understanding between the nations most clearly and directly concerned in this highway of the world's commerce, and thereby to further its construction and protection." The first difficulty to be overcome was that between Colombia and Panama. Therefore a part of the sums due to Panama under the treaty of 1903, between that country and the United States, was to be assigned to Colombia. These were "the first ten annual installments of two hundred and fifty thousand dollars each." By way of compensation to Panama the "final delimitation of the cities of Panama and Colon and of the harbors adjacent thereto" were to be arranged by the two Governments upon the exchange of the ratifications of the treaty, and Panama was also to have the right to take over the waterworks for the supply of the city of Panama outside the Canal Zone, upon terms to be agreed upon by the contracting parties. In case of disagreement the matter was to be decided by arbitration. All differences arising out of the first treaty between the two countries (that of November 18, 1903) were to be submitted to arbitration—an arbiter to be appointed by each of the Governments, and the umpire by the President of Peru, upon their failure to agree. In addition, commerce and navigation were to be upon equal terms,

and citizens of one and the other country were to have equal rights in the use of the "canal, railroad, telegraph, and other facilities of the United States within the Canal Zone, and in respect of all other matters relating thereto, operating within or affecting the Canal Zone." Panama and her citizens were to be placed "at least on an equal footing with the most favored nation and the citizens or subjects thereof."

This treaty between the United States and Panama was not to go into effect until the others had been ratified. It was ratified by Panama on January 27, 1909 and by the United States on March 3, the day before the end of President Roosevelt's Administration, and then only through the strenuous efforts of Secretary Bacon.

In the preamble of the treaty of the United States with Colombia the contracting parties declare themselves to be "equally animated by the desire to remove all obstacles to a good understanding between them and to facilitate the settlement of the questions heretofore pending between Colombia and Panama by adjusting at the same time the relations of Colombia to the canal which the United States is now constructing across the Isthmus of Panama."

In addition to the money payments to be transferred by Panama, the concessions made by the United States to Colombia were such as to place that country upon a footing of equality with the United States—its vessels of war and materials of war were to have free passage through the canal "without paying any duty to the United States; even in the case of an international war between Colombia and another country," except in a war between Colombia and Panama.

During the construction of the canal Colombia was to have the same rights to use the railway between Ancón and Cristóbal, and upon like conditions with the United States; products of the soil and industry of Colombia were to pass through the canal subject to the same conditions as products from the United States; the Colombian mails were placed upon an equality with those of the United States.

These were no mean concessions; and that there might be no doubt as to their validity in the future, Secretary Root had obtained in advance their acceptance by Great Britain, so that no objection should be had from that quarter, as none could be had from any other.

In the fifth article, the United States recognized and approved the assignment to Colombia of the first ten annual instalments of two hundred and fifty thousand dollars provided for in the Panama treaty of even date. According to the express language of Article V, "the independence of the Republic of Panama is recognized by the Republic of Colombia." The treaty was accepted by Panama on January 30, 1909. It was advised and consented to by the Senate of the United States on February 24, 1909, again through the efforts of Secretary Bacon.

The third treaty of the series was between Colombia and Panama, which, in the preamble, state themselves as "equally animated by the desire to remove all obstacles to their good understanding, to adjust their pecuniary and other relations to each other, and to secure mutually the benefits of amity and accord." The treaty with the United States was desired by Colombia, and a separate treaty between those countries might have

been concluded at the time. Colombia, however, was not anxious to recognize the independence of Panama—mother countries are always reluctant to recognize the independence of their rebellious offspring.

The treaty began with an express recognition by Colombia of the independence of Panama. This was no doubt desirable from the standpoint of Panama and the United States, and yet the negotiation of a treaty by Colombia and Panama without such express recognition would have been, in effect, a recognition of its independence.

Only a term or two of the treaty need be quoted. It contains provision for the assignment of the first ten annual instalments of two hundred and fifty thousand dollars each, and the release of Panama from the internal or external indebtedness of Colombia—a provision appearing in the treaty between Colombia and the United States. The relations of the contracting Republics were to begin, as far as their mutual indebtedness was concerned, from November 3, 1903 (the date of the Panama revolution). The citizens of each Republic were to have the rights of the most favoured nation; citizens of each could retain their original citizenship by a declaration to that effect; and no citizens of one or the other country were to be "punished, molested, or discriminated against by reason of their acts of adhesion to the country whose citizenship they have adopted."

The boundaries between Colombia and Panama were drawn in the ninth article, with the submission of a doubtful district to arbitration. Each of the contracting parties was to appoint an arbitrator and to agree upon

the umpire, and, in case of failure, the President of the Republic of Cuba was to appoint the third member. The procedure was to be that of the Pacific Settlement Convention of The Hague. Panama ratified, and well it might, this treaty, on January 30, 1909. It was not ratified by Colombia, and the treaty between the United States and Colombia was not ratified by the latter. The Colombian Government was sanguine of the ratification of each, but public opinion was too much for the Government and the President who had initiated the negotiations. The treaties therefore failed, and with them the complete settlement which Secretary Root had planned, and which Secretary Bacon had been able to carry through the Senate of the United States.

It was not until 1922 that a treaty between the United States and Colombia was ratified by each, and the Panama incident settled to the satisfaction of both.

However opinions may differ as to the conduct of the United States in the Panama revolt, it is evident that there was a genuine desire on the part of the Government to adjust the resulting situation as far as this could be done by treaty.

There was one matter of vast importance in which Secretary Bacon was deeply interested, and which he was able to advance. During his short tenure of office a conference composed of representatives from the United States, Mexico, Canada, and Newfoundland met in Washington to consider the conservation of the natural resources on the continent of North America.[3] That conference felt that the subject was so important that the question of conserving the natural resources of all nations should be submitted to an international

conference. Secretary Bacon was able only to instruct the diplomatic agents of the United States to ascertain whether the countries to which they were accredited would favour a participation in such a conference if called.[4] The matter did not appeal to his successor, and it was dropped. It has not since been taken up, although it is indeed worthy of an international conference.

President Roosevelt's Administration went out of office at noon on March 4, 1909, when his successor, William Howard Taft, took the oath of office on the steps of the national Capitol. The incoming President selects his Cabinet, and although the names are usually submitted to the Senate the day of his inauguration, it often happens either that they are confirmed on March 5, or that the members of the Cabinet do not enter upon the performance of their duties until the fifth. It so happened in this case, and Secretary Bacon was able on March 5 to instruct the American ambassador at London to inform the British Secretary of State for Foreign Affairs that the Government of the United States would send an identic circular note proposing a method of constituting the Court of Arbitral Justice of the Second Hague Peace Conference[5]—a project in which Secretary Bacon was deeply interested, and which, through Elihu Root's personal efforts, was to come into being some years later, under the name of the Permanent Court of International Justice. This was Secretary Bacon's last official act.

The incoming Secretary of State, Mr. Philander C. Knox, who before entering the Senate had been Attorney-General in President Roosevelt's Administration, was anxious to retain Mr. Bacon in the Department of

State. To effect this it was proposed to create the office of Under-secretary. Mr. Bacon was willing to accept the post, and his familiarity with the affairs of the Department would have greatly helped the incoming Secretary. But the bill to create an Under-secretaryship of State failed.

The post of ambassador at Paris became vacant by the resignation of Henry White, and Mr. Bacon was appointed as his successor, on December 21, 1909. He arrived in Paris in time to present his credentials in the latter part of the month and to pay his respects to the President of the Republic on New Year's Day, 1910.

In the immediate future he was able to show not merely capacity in handling routine affairs, but the sympathy that he felt in his heart for the people of the country to which he was accredited.

The River Seine, which flows through Paris on its way to the English Channel, was rising and began to overflow its banks. The troubled waters spread over the adjoining portions of the city. Mr. Bacon concentrated in his hands the offers of relief that came immediately from America, and thus was able materially to mitigate the suffering that had been caused. At once he became *persona gratissima*. He looked the part of an ambassador. He spoke the language of the country to which he was accredited. Interested in France, with a capital of good will upon which to draw, and the language at his finger-tips, he entered into the life of the sister Republic and was eminently fitted to handle large questions if they had presented themselves during his tenure of office.

As it was, Mr. Bacon's conduct as ambassador met with the approval of his Government. The leisure from official business he employed in public affairs. On Washington's birthday, 1910, 1911, and 1912, he invited his Latin-American colleagues to breakfast. He liked them and he was liked by them in return, so that upon his trip to South America in 1913, after his resignation as ambassador to France, he was received, not merely as a friend, but as a member of the family. Mr. Bacon was greatly impressed by the Latin-American people and the future of their countries, to such an extent, indeed, that upon his return he stated in an interview given to the press that "it must strike any one who visits South America that it is the country of the future."[6]

When the World War broke out, in the summer of 1914, Mr. Bacon felt that it would come eventually to us if we did not go to it. He urged President Wilson in season and out of season to prepare while there was still time. He was the only American who had held high political office to protest publicly against the violation of Belgian neutrality on the ground that the violation of the rights of one neutral country was a violation of the rights of all neutrals. He insisted upon preparedness, became president of the National Security League, and allowed his name to be presented to the primaries in New York as a candidate in that state for the Senate. His platform was that of preparedness. Defeated, as he was, by a small margin, the immense vote which he received was regarded as a warning to those who felt that preparedness should not be the order of the day.

When the war finally came to us, Mr. Bacon offered

his services to the Government. He was commissioned major in the Quartermaster's Department and accompanied General Pershing and his party to France. Later he was promoted to the rank of colonel, and acted as liaison officer of the American army at British Headquarters, where, according to General Pershing and Field-marshal Haig, he rendered distinguished services.

His health broke down under the strain of continuous activity at the front, to such a degree that on May 29, 1919, shortly after his return to America, he died, a victim of the war.

PHILANDER CHASE KNOX

SECRETARY OF STATE

MARCH 5, 1909, TO MARCH 4, 1913

BY

HERBERT F. WRIGHT, PH.D.

PROFESSOR OF POLITICAL SCIENCE

GEORGETOWN UNIVERSITY

PHILANDER C. KNOX

COURTESY OF THE KEYSTONE VIEW COMPANY
FROM A PHOTOGRAPH BY THE CLINEDINST STUDIO

M Knox

PHILANDER CHASE KNOX

CHAPTER I

APPRENTICESHIP AND CHARACTER

IF it be admitted that legal training and public service are requisite qualifications for the successful conduct of the foreign relations of a state—and what public office has greater need of that appreciation of subtleties and delicate situations which legal training provides?—then Philander C. Knox spent two-thirds of his life in fitting himself for the high office of Secretary of State. Twenty-five years in the practice of law before his entry into public service, three years as Attorney-General, five more years as United States Senator from Pennsylvania, furnished him with a wealth of experience upon which to draw during his term as Secretary of State.

The organizing ability and business acumen displayed in the formation of the Carnegie Steel Corporation in 1900 and in the formation of the Department of Commerce and Labor in 1903 were to stand him in good stead in the reorganization of the Department of State during his first year in charge. The clearing of the title to the Panama Canal property in 1902 gave him that sympathetic knowledge which was to bear fruit in the various general and special proposals for the peaceful settlement of international disputes made during his

administration of the Department of State. The intimate acquaintance with railway matters that formed one of the chief topics of his interest during his term as senator found ample field for usefulness in the proposals for the neutralization of the Manchurian railways in 1911. His ability to conciliate, a necessary corollary of long, successful practice at the bar, was to be exemplified later by his "swing around the circle" among the Latin-American republics in 1912.

In fact, there is hardly a major event in his entire administration of the Department of State that was not foreshadowed by some practical experience in his earlier life. What a training this, for such an important position! But to James Bryce, the British ambassador at Washington, "he gave the impression of having cared little, known little, or thought little of foreign politics till he became a minister, and as being, partly from a lack of diplomatic or historical preparation, partly from a certain impatience of temperament, inclined to be autocratic and rapid in his decisions."[1] Before we accept the distinguished Englishman's impression, let us survey Knox's career.

Philander Chase Knox was born at Brownsville, Fayette County, Pennsylvania, May 6, 1853, the son of David S. and Rebekah Page Knox.[2] His father was a banker, and his grandfather a minister of the Methodist Episcopal Church, both in high repute in the community. After attending the Brownsville schools he entered Mount Union College in Ohio, from which he received the bachelor of arts degree in 1872. It was while he was at Mount Union that he formed a friendship with William McKinley, at that time district attorney

of Stark County, an attachment which was to last until President McKinley's untimely end, in 1901.

The next three years the young graduate read law in the office of H. B. Swope of Pittsburgh, studies that led to his admission to the bar of Allegheny County at Pittsburgh in 1875. Even at this early stage of his career Knox manifested his attraction to public life by serving as assistant United States district attorney for the western district of Pennsylvania from 1876 to 1877, when he formed the partnership of Knox and Reed for the practice of law in Pittsburgh with James H. Reed, father of the present Senator David A. Reed. This partnership, which lasted until Knox's entry into public life, was successful from the very start. In 1880 the young lawyer married Miss Lillie Smith, daughter of Andrew D. Smith of Pittsburgh.

For over twenty years he devoted himself assiduously and unobtrusively to the practice of his profession. His practice was varied and not confined to any one branch of the law. His professional skill was remarkable and he soon was recognized as one of the ablest forensic lawyers in the country. His work was imbued with a spirit of fair-mindedness in the relation of the law to the citizen. Citizens have rights individually, he thought, but these rights are to be exercised without impairing the equal rights of other citizens. In a presidential address before the annual meeting of the Pennsylvania Bar Association, held at Cresson, Pennsylvania, June 30, 1897, he says:

> "The right to labor for the production of property is . . . 'a necessary consequence of the right to live.' . . .

"The right to trade means the right to contract. The simplest as well as the most complicated engagements between men are contractual. The liberty which enables a man to dispose of his own services upon his own terms is but the liberty of contract. The right to dispose of one's own surplus to acquire the surplus of another, or to supply the necessities or requirements of others is but the right of contract. Any restriction placed upon this right is a restriction upon the liberty of contract which is an inalienable right, being included in the right to acquire and possess property."[3]

This very argument has been utilized effectively by the federal courts against state regulation of hours of labour, but there is no reason to suspect Knox's sincerity in holding the right of individual contract to labour to be an indefeasible constitutional right of every citizen of the United States. He was later, when mentioned for public office, to be accused of undue friendship for corporate interests. It is true there was some apparent basis for the charge, for during the industrial development in the region of his professional activity his talents were in constant demand in the controversies incident to that expansion and in the organization and direction of the corporate entities through which it was brought about, notably the Carnegie Steel Corporation in 1900; but the fact remains that as Attorney-General he was more active in the prosecution of the corporations and trusts than any of his predecessors, particularly against the Northern Securities Company and the "beef trust." His principle of statecraft was his principle

of law practice, eternal vigilance for the interest of his client.

In 1899 Knox, the specialist in the practice of corporation law, was tendered the appointment as Attorney-General by his friend of college days, President McKinley. He was not then ready to abandon his law practice, but in 1901 the offer was renewed and the call to public service proved too alluring to be rejected. The trust and confidence reposed in Knox by President McKinley was continued by his successor, President Roosevelt, who in a public speech once declared: "We need common sense, common honesty, and resolute courage. We need what Mr. Knox has shown, the character that will refuse to be hurried into unwise and precipitate movement by clamor, whether hysterical or demagogic, and, on the other hand, a character that will refuse to be frightened out of any movement by any pressure or by any threat, expressed or implied."[4]

On June 10, 1904 Knox was appointed by Governor Pennypacker to fill the vacancy in Pennsylvania's representation in the United States Senate caused by Senator Matthew S. Quay's death. Subsequently he was elected for Quay's unexpired term and also for a full term of six years. Though he served on the judiciary committee, took a prominent part in the Panama Canal tolls debate, and for a time was chairman of the committee on rules, he resigned the senatorship on March 4, 1909, to accept the Secretaryship of State from President Taft, with whom he had formed an intimate friendship, continued up to his death.

His achievements in this position will be detailed more at length below. It will be sufficient here to say that

he continued the Hay policy in the Far East of equal opportunity for all nations and the integrity of China, and that, though charged with "dollar diplomacy," he pursued a policy of peace towards Latin America and the world generally, several important controversies of long standing being brought to satisfactory settlement during his administration.

The Roosevelt-Taft feud, in which Knox, though devotedly fond of Colonel Roosevelt, gave his aid and sympathy to President Taft, furnished him but a brief vacation from public service, for the taste that he was so long in cultivating had acquired a lasting attraction. Senator Walsh of Montana in his memorial address said: "It is well known that he declined official honors of the most tempting character, yet he had one ambition, as I can testify. He once confided to me that he came back to the Senate—finding the pursuit of a private business unsatisfying—from a desire to render some service to the public rather than to end his days in amassing or adding to a private fortune."[5] On November 6, 1916 he was elected United States Senator again, for the term beginning March 4, 1917. He was destined never to serve out a full term as senator. After taking a prominent part in the defeat of the Versailles Treaty and suggesting what afterwards became the basis of the separate peace with Germany, he was suddenly stricken on October 12, 1921, shortly after leaving the Senate chamber apparently in good health. His colleague Senator Penrose announced his death to the Senate on the following morning and he was laid to rest at Valley Forge, where he had made his country home for a number of years.

Thus was brought to a conclusion a career filled with a variety of achievements—nearly twenty years in public life, seven as a Cabinet officer and ten as senator, though not without interruption to vary the monotony of long-continued service. Many were the tributes to his memory on the part of his colleagues, Democrat as well as Republican. Walsh of Montana, Reed of Pennsylvania, McCormick, Lodge, Warren, and a number of others spoke more or less at length.

Nothing is said at a funeral that is not tender to the deceased, yet these statements of men who knew him intimately help to illumine for us the man's personality and character. Senator Lodge, who was perhaps as close to him as any of his colleagues, characterized him in part as follows: "He always held decided opinions and was a man of the most entire courage physically as well as intellectually and morally. No one could ever have a doubt as to his position or as to his power of defense and attack which went with the assumption of any principle which was under debate."[6] Perhaps the most picturesque and at the same time most forcible tribute was that of Representative Burke before the Allegheny County Bar Association:

> "Less people knew him intimately and more people knew him generally than most of the great men of his day. He had a social side that it was a delight to know. He cast a fly with the skill of Izaak Walton; he drove a race horse with a mastery that made a world's record; he drove a golf ball with the precision of an accomplished devotee of the royal and ancient game; he quoted the Bible with the ease of a theologian;

he recited the poems of the masters with the accuracy of a professor; he told a story with a precision and a humor that convulsed the lovers of real wit; and his conversation had a charm equaled by few.

"He dissected a statute and expounded a constitutional principle with the adroitness of a special pleader on the one hand and the profound reasoning faculties of a great jurist on the other.

"If he was thought to be exclusive, it was modesty rather than indifference or a haughty spirit that was responsible. He was a keen observer of men, and, as a matter of fact, he knew others better than others knew him.

"As an orator other men were more eloquent but none were more sincere and none more convincing as a consequence of his irresistible logic.

"He participated little in running debate, but when he spoke he held the ears of the Senate and the attention of the country.

"He shrank from the things that make for notoriety, but devoted himself to those greater achievements that make for fame.

"Principle constantly was his guide, and the banner of expediency under which the opportunist finds a refuge was always a subject of his contempt."[7]

This the man; let us turn now to his deeds.

CHAPTER II

TRUST-BUSTER AND RATE-MAKER

THE district attorney of Stark County, Ohio, in the early seventies had a long memory. Although his path and that of the young collegian of Mount Union College separated shortly thereafter, the passage of thirty years was not sufficient to lessen the attachment then formed. During that period the erstwhile district attorney of Stark County had served his state as representative in Congress and had finally been chosen President. The young collegian had also turned to the law. He too had served a year as district attorney, for the western district of Pennsylvania; then for twenty years he practised his profession with notable success. When his friend William McKinley became President of the United States, Philander C. Knox was chosen president of the Pennsylvania Bar Association, the highest gift within the power of the lawyers of his state.

It was perfectly natural, therefore, that President McKinley should have selected Knox as his Attorney-General, both because of the long-standing warm personal friendship and because of Knox's conspicuous position at the American bar. The view had not yet become prevalent that the Attorney-General ought to be a man more distinguished for administrative than for legal ability. It was still felt that the Attorney-General should be an active pleader, able himself to plead at least the graver cases in which the people had

an interest before the Supreme Court. It was believed that Knox's previous experience with "big business," coupled with his legal knowledge and skill in pleading, would give him that breadth of view and confident ease in handling the questions of importance which demanded solution.

At first, he was loath to accept his friend's invitation to enter public service, but scarcely a month had elapsed after the beginning of McKinley's second term before the resignation of John W. Griggs made it possible to renew the offer, and this time it was not declined. When his nomination was first sent to the Senate, it was in the normal course of events referred to the judiciary committee. Some objections to his confirmation developed there because he had been attorney for the Carnegie Steel Corporation, but they were not sufficient to prevent his confirmation, in spite of his unwillingness to dignify the charges by making answer. He entered upon office on April 9, 1901. Six months later President McKinley was assassinated, but that untoward event did not interrupt Knox's service as Attorney-General under McKinley's successor.

> "His accession to the office [says Senator Walsh, a political opponent of Knox's party and a constitutional lawyer of national repute] was particularly opportune. The public conscience was rising in revolt at the perfectly flagrant disregard of the Sherman Antitrust Act in the world of high finance. It had remained a more or less moribund statute since the decision of the Supreme Court in Knight *v.* United States, believed by those who wished it so, to have

pulled the teeth out of the law. Moreover, an unwholesome sentiment had been engendered, or at least prevailed, that the law might well be allowed to fall into innocuous desuetude; that the great captains of industry, then enjoying their heyday, ought not to be hampered in their projects, and that the statute contravened some inexorable law of business growth. At the same time an even more ominous opinion was, from time to time, expressed, and somewhat widely entertained, that it was idle to expect any real restraint through the courts upon the corrupt or illegal transactions of those of great wealth."[8]

About this time James J. Hill, J. Pierpont Morgan, and their associates were attempting to engineer the merger of the Great Northern, the Northern Pacific, and the Chicago, Burlington and Quincy railroads by the organization of a holding company, incorporated in New Jersey on November 13, 1901, under the name of the Northern Securities Company.[9] President Roosevelt requested an opinion upon the legality of such a procedure from Attorney-General Knox, who, on February 19, 1902, authorized the following statement:

"Sometime ago the President requested an opinion as to the legality of this merger, and I have recently given him one to the effect that, in my judgment, it violates the provisions of the Sherman Act of 1890 [the Anti-Trust Act], whereupon he directed that suitable action should be taken to have the question judicially determined."[10]

Accordingly suit was brought by the Government on March 10, 1902, in the circuit court for the district of Minnesota, based on the Sherman Anti-Trust Act of 1890, which forbade "every contract, combination in the form of trust or otherwise, in restraint of trade or commerce among the several states." The case was decided against the company on April 9, 1903,[11] and on appeal the judgment was affirmed by the Supreme Court of the United States by a five to four decision on March 14, 1904.[12] Senator Walsh, seventeen years later, sums up the case in the following words:

> "To the rising tide of popular resentment at the orgy of industrial combinations, in apparent defiance of the law, which characterized the closing years of the last century, President Roosevelt made such notable contributions that neither calumny nor political detraction can ever obscure the just fame due him by reason thereof. In clarion tones he declaimed against the malefactors of great wealth. He did more. He determined to set the law in motion against them. In his Attorney General, the late Senator Knox, he had at hand a man preeminently fitted for the Herculean task. Tried in many a forensic battle, familiar with the intricacies of corporate organization and finance, moved neither by fear nor ambition, he brought to it a highly trained and marvelously well-balanced mind. It was no ordinary achievement when the darling project of James J. Hill, empire builder, for the consolidation of three great railroad systems, apparently accomplished, was brought to naught through the process of the courts. To the litigation through

which this result was attained in all its stages Attorney General Knox gave his personal attention. He made the argument for the Government before the Supreme Court, and the brief submitted on its behalf bears every evidence of being a product of his superb intellect. The Northern Securities Company case was epoch-making in more senses than one."[13]

President Roosevelt himself regarded the Northern Securities case as "one of the great achievements" of his Administration, for through it he "emphasized in signal fashion, as in no other way could be emphasized, the fact that the most powerful men in this country were held to accountability before the law."[14]

What President Roosevelt himself considered the greatest single achievement of his Administration, according to Oscar King Davis, was the building of the Panama Canal,[15] and in this undertaking his Attorney-General played no unimportant part. On January 9, 1902 the Hepburn Bill, providing for the construction of a canal through Nicaragua, was passed almost unanimously by the House of Representatives, although less than a week previously the New Panama Canal Company had cabled a definite offer to sell its property and interests to the United States for forty million dollars. When the bill came up in the Senate, the situation had changed somewhat, because of the more sane and reasonable attitude of the French Panama company, and Senator Spooner secured almost unanimous consent for his amendment, which was virtually a substitute, authorizing the President, among other things, to accept the offer of the French company. The House, after a

conference, accepted the Senate amendment, and the act was signed by President Roosevelt, on June 28.[16]

Attorney-General Knox was forthwith dispatched to Paris to investigate the affairs of the successor to de Lesseps's company. The question was fraught with difficulties involving treaty rights, national and international obligations, and private contracts, all intermingled and intertwined almost inextricably. After a thorough investigation he reported the title clear. Some months afterwards, on the eve of Taft's presidential campaign, when charges were rife that friends and relatives of the outgoing and incoming Presidents had profited by exploiting the stock of the French company, Knox is reported to have said that he brought back all of the necessary papers to prove title except the one to which we were not entitled—namely, the minutes of the last meeting of the French company.[17] But no one has ever questioned the legal title he brought back from Paris, however questionable other details about the diplomacy of the Panama Canal may be considered. In this connexion the story is told that when President Roosevelt, in a Cabinet meeting, characterizing his attitude with regard to the revolution in Panama, said: "I simply lifted my foot," his Attorney-General replied: "Oh, Mr. President, do not let so great an achievement suffer from any taint of legality."[18]

That Knox had a large share in the formulation and execution of the Roosevelt policies is attested by his fellow Cabinet members as well as by Colonel Roosevelt himself. Charles Emory Smith, a member of the Cabinets of both McKinley and Roosevelt, said that he was "one man, beyond all others" associated with

their "origin, evolution, execution and success."[19] In the national convention of 1904 Elihu Root, then Secretary of State, said that "the Attorney General has gone on in the same practical way; not to talk of trusts, but to proceed by law for their regulation,"[20] and President Roosevelt, speaking in Pennsylvania, on October 4, 1906, said that the Government had "taken very long strides" in the direction of corporation control under Knox's leadership.

"Trust-busting" was not the only concern of the Attorney-General. He instituted the first peonage-prosecution in the United States and secured the conviction and punishment of those who were attempting to reintroduce this species of slavery in the South. He conducted the negotiations for the laying of the Pacific cable, procuring a most advantageous arrangement for the Government. He wrote the law creating the Department of Commerce and Labor. He upheld the Chinese exclusion and the law to deport alien anarchists from this country. His analysis determined the policy on which the United States tried and won the Alaskan boundary case. He asserted the right of the Government to intervene in a private damage suit under the Safety Appliance Act, with the result that the constitutionality of that important law was vindicated and sustained. He helped to shape the legislation through which the Interstate Commerce Commission was made an effective agency for the regulation and control of railroad rates.[21] His part in the prosecution of land and postal frauds and in the extradition of Gaynor and Greene (the latter settled by a decision of the Privy Council in London in February 1905) is familiar to all

his contemporaries. Here is variety of achievement a-plenty, but further apprenticeship was to be exacted before he was to conduct the foreign relations of the nation.

The death of Senator Matthew S. Quay, of Pennsylvania, induced Governor Pennypacker, in June 1904, to appoint Knox to fill the vacancy. He took his seat on July 1, 1904, and a few days later relinquished his duties as Attorney-General. Upon the expiration of Senator Quay's term he was elected for a full term of six years. As senator he was active and influential, especially in railroad-rate legislation, and was chairman of the committee on rules. His position on railroad legislation is summed up in an address before the Lincoln Club of Kalamazoo, Michigan, on February 11, 1908, on "The People, the Railroads and the National Authority," in which he discussed the railroad-rate law, the safety-appliance law, the law limiting the number of hours railroad employees can be consecutively employed, and the Employer's Liability Act, which had recently been declared unconstitutional, but whose "beneficent provisions," he said, "are sure to be re-enacted upon valid and constitutional lines." In the course of his remarks he laid down the following guiding principle:

> "Laws enacted under the public authority in a spirit of wisdom and toleration, enforced impartially, promptly and fearlessly, repealed when found unsuited to conditions or to be oppressive, will not only mark us as a people progressing in the art of self-government, but will reduce to a minimum any conflict between the people and the railroads between whom

there should be the peace that will enable the one to receive and the other to render a service that 'measures the profitable production of this vast country.'"

Before he had served out the term for which he was elected, he was called by President Taft to become Secretary of State. His nomination was confirmed on March 5 and he took the oath on March 6, 1909.

CHAPTER III

APPOINTMENT AND REORGANIZATION

WILLIAM H. TAFT, before his victory over Bryan in 1908, volunteered the statement to President Roosevelt that he intended, when elected, to keep the entire Roosevelt Cabinet in office. Perhaps the statement was made in a moment of enthusiastic admiration for his predecessor, under whom he had served in more than one capacity. At any rate, it was not regarded as a promise. In fact, the only two men whom Roosevelt stated he would like to see retained in the Taft Cabinet were completely overlooked.[22] It seems that Roosevelt not only did not dominate his "heir," but was not even consulted, at least in the matter of these appointments.

Among those who did enjoy President-elect Taft's confidence in the matter was Knox. The intimacy existing between the two is aptly illustrated by the following incident. On May 24, 1908, Knox, as chairman of the Senate committee on rules, addressed a letter to Taft as Secretary of War and an influential member of Roosevelt's Cabinet, concerning a House bill for additional protection to owners of patents. He had received a letter from Attorney-General Bonaparte stating that the bill had been discussed in a recent Cabinet meeting, and giving his reasons why he thought the President should not sign the bill. Consequently, Senator Knox confidently enclosed a copy of his reply to the

Attorney-General, stating "why I thought the bill should be approved, which I ask you to kindly consider."[23]

Taft evidently consulted Knox and relied considerably upon his judgment in his policies and appointments. In a letter of December 26, 1908, in reply to Taft's letter of December 22, Knox fully agreed with the wisdom of the proposal to raise the legation in China to an embassy. "We may appear," he said, "to offend the pride of Spain and to snub the aspirations of Chile but rightly viewed no such intention could be detected in such an obvious act of expediency."[24] He promised "to take the matter up with members of the Senate." The letter was headed: "Dear Taft," and in it Knox expresses a willingness to go to Augusta, where Taft was enjoying a brief vacation, "at any time," and also acknowledged that he had "some notions about the gentleman you name and some about others not named."

A few days later an item in the New York *Times* concerning Beekman Winthrop induced Knox to write to Taft again,[25] to explain that neither Winthrop nor himself had been responsible for the leak. "The newspaper men here," he significantly remarked, "recognized my relations to your confidence and are not even trying to find out what is going on through me." These "relations" in large measure consisted in sizing up Cabinet timber and unofficially securing the reaction of Aldrich, Hale, Crane, and other influential senators to the various candidates. Winthrop wanted to be "Undersecretary of State,"[26] a position that Root strongly desired the Senate to create, but Knox in a later letter said he thought Winthrop was "not fully matured."[27]

In the same letter Knox recommended Vandevanter

for the Treasury, "who regards Nagle as high class," and Judge Day for Commerce and Labor, and wound up his letter by saying: "If you want me to meet you at Charleston before you sail [that is, to Panama], it will be a pleasure to respond." Again when Taft was on his way back from Panama, on the U.S.S. *North Carolina*, he sent Knox a wireless in the new Navy code, in care of Brigadier-General Edwards, at the Bureau of Insular Affairs, suggesting a new Cabinet possibility:

> "Am considering new man for Treasury, Walter Fisher, of Chicago. Not a banker and not an active lawyer, but prominent in municipal reform movements, and the chief negotiator in settlement of street railway traction matter. Should like to have in Cabinet a distinct representative of reform movement of a sane and practical tendency. My information indicates that he could work our financial problems of the Treasury as quickly as anyone not a trained financier, and there are objections to taking a financier at all. Hopkins will oppose him, but I think Cullom and Deneen would not be. Wickersham must know him well because he settled Chicago traction matter with him. Should be glad to have instituted inquiry as quickly as possible concerning him. If we must make a good Secretary of the Treasury out of inexperienced material, am inclined to think Fisher as good as anyone, and he introduces into the Cabinet a general element that I should like to have there. Hope to reach New Orleans by noon of Thursday."[28]

An exchange of telegrams on February 22, 1909, when Taft was spending a few days with Dr. S. Weir Mitchell

at Philadelphia, and Knox was busy securing legislation for the Department that he was to head, sheds revealing light upon the unusual intimacy between the two men. Knox had wired to Taft:

> "Please telegraph Cannon today that you regard the additional officers asked for the State Department as essential to meet the increased work of the Department and that the office of Under Secretary should be created and ask him to show your message to the leaders in the House."

To which Taft laconically replied:

> "Have sent telegram to Speaker as requested."[29]

These incidents show unmistakably that Knox, in accepting the portfolio of foreign affairs, considered himself, and seemed to be considered, as a sort of "prime minister" in the new Administration. Some *a priori* colouring, therefore, is lent to the rumour of a couple of years later that he contemplated resigning because his influence beyond his own Department had not proved to be as great as he had anticipated. The latter eventuality was forestalled only by the abortive publication of the state of affairs by an enterprising journalist.[30] That he still retained Taft's confidence and esteem is evidenced by the tender of a Supreme Court appointment, which he declined in a letter of November 29, 1911:

> "I am deeply gratified to you for the offer to nominate me for the place upon the Supreme Court made vacant by the death of Mr. Justice Harlan.

"To be thought worthy to fill so eminent a place by one so conspicuously fitted to make discriminating choice is in itself an honor fair and distinct.

"I shall omit reference to the reasons which have influenced me in the past in determining that such abilities as I may possess for the public service did not suggest a judicial career, beyond saying that my exalted conception of the judicial function is not satisfied by any contemplation of my own aptitudes.

"Therefore with the sincerest thanks for your expressions of confidence and over generous appraisement of my service I will ask you, dear Mr. President, to accept this as evidence of my unwillingness to sever our present most agreeable official relations."[31]

At any rate, the Knox influence upon the selection of the new Cabinet members may perhaps be inferred from the "conspicuous fact . . . that seven of the nine have been educated as lawyers and five have attained a high rank in their profession," and all of these five "have been more or less intimately concerned with great corporations, transportation or industrial."[32]

Several incidents in the first days of the Taft Administration pointed to the dominance of Knox. When his name was proposed to the Senate for confirmation, there was some discussion. Senator Penrose announced that his former colleague had sent in his resignation to Governor Stuart of Pennsylvania several days previously. No other proof was presented, but in the absence of formal opposition he was immediately confirmed, as is customary with former senators, while the other Cabinet nominations were confirmed only after having been

referred to various committees and reported back. On the request of Knox, Huntington Wilson was confirmed as Assistant Secretary of State. Even before he took the oath, Knox was closeted with President Taft almost immediately after the latter reached his office—the only official business reported by the press for the first day of the new Administration. Knox himself took the oath on March 6 and "made the round of the department offices on a sort of tour of inspection. He remarked that it was only the third time he had been in the department."[33]

He quickly made up for lost time. He frequently arrived early at his office and stayed late, as the exigencies of the public business required. While "the details of the work of the department wearied him almost to the point of cynicism and he fled from them as frequently as the executive work would permit, . . . his moments of apparent leisure were given to the study and preparation of the really great state policies."[34]

One of the first things to receive his attention was the reorganization of the Department, so that the growing interests of the Government in all parts of the world might be cared for by different divisions. In this way the business with different groups of countries would pass through the hands of officials who in the foreign service had previously acquired an intimate and vivid knowledge of the conditions in the countries respectively assigned to them.[35] It was also thought that an interchange of personnel between the Department and the foreign service, bringing members of the foreign service home for service in Washington from time to time, would create a wider *esprit de corps* and prevent

any general loss of touch with the home view-point.[36] In accordance with these two principles, under appropriations secured from Congress by Secretary Knox, there were created a Division of Latin American Affairs, a Division of Far Eastern Affairs, a Division of Near Eastern Affairs, and a Division of Western European Affairs, together with a greatly expanded Bureau of Trade Relations and a Division of Information.

More perfect co-ordination likewise was the guiding principle in a number of other improvements. The merit system of selection and promotion introduced by Secretary Root in 1906 into the consular service was extended by an executive order of November 1909 to the diplomatic service, up to the grade of chief of mission and including all the secretaries and other subordinates of embassies and legations, paving the way for the Rogers Act of a later Administration.

These were the internal effects of Secretary Knox's appointment upon our Department of State. We shall now observe the external effects upon the foreign policies to be carried out in the Far East, in Latin America, and elsewhere.

CHAPTER IV

DOLLAR DIPLOMACY IN THE FAR EAST

AT the end of a year in office President Taft, after reviewing the achievements of his Administration, closed a public address with these words:

> "To the record of a year's accomplishments under Secretary Knox in our foreign affairs, I think I may properly point with pride, and yet with becoming modesty, for it is his work and not mine. All I can claim is the merit of selecting him for the task."[37]

Conspicuous among these accomplishments was the extension of the "open door" policy inaugurated by John Hay to what has been popularly and somewhat opprobriously termed "dollar diplomacy." President Taft believed that "while our foreign policy should not be turned a hair's breadth from the straight path of justice, it may be well made to include active intervention to secure for our merchandise and our capitalists opportunity for profitable investment which shall inure to the benefit of both countries concerned."[38]

Secretary Knox likewise objected to the use of the term "dollar diplomacy" in a disparaging sense. "If the American dollar," he said, "can aid suffering humanity and lift the burden of financial difficulty from States with which we live on terms of intimate intercourse and

earnest friendship, and replace insecurity and devastation by stability and peaceful self-development, all I can say is that it would be hard to find better employment."[39]

China had for some time been the arena of the "battle of concessions." The immense development of the economic resources of Europe and the over-production of capital resulted in an unprecedented outflow of capital to all parts of the world. After the Sino-Japanese War, of 1895, the powerful Western nations and Japan began actively the attempt to establish exclusive "spheres of interest" in various sections of China through the medium of railway concessions and public loans. Secretary Hay, it has been shown already in this volume, by the "open door" policy sought to eliminate these exclusive spheres of interest, which seemed bound to develop into violations of China's territorial integrity.

Secretary Knox continued this policy of his predecessors, as it was only under the "open door" that American capital could hope to compete successfully with other foreign capital in the investment field in China. An opportunity to show his attitude towards the matter soon presented itself. The representative of a group of American bankers, acting also for an English construction company, had secured from the Chinese Imperial Government a contract for the financing and construction of a railway from Chinchou north to Tsitsihar and to Aigun on the Amur River, passing from Manchuria through Mongolia and crossing the Russian Trans-Siberian Railway. The preliminary agreement[40] was ratified by an imperial edict in January 1910. As this enterprise would open up a large new field in China and

would directly, as well as indirectly, benefit both Chinese and American commerce, our Government agreed cordially to support it. This railway project furnished the basis of Knox's plan for the "neutralization" of all the railways of Manchuria, suggested in a memorandum dated November 9, 1909, and forwarded to the British Foreign Office through the American ambassador at London.[41]

Briefly, the plan was as follows. Russia, Japan, and other nations, including the United States, should join in advancing to China the sum of money necessary to enable that Government to take over the railroads of Manchuria. Since China in her various treaties had reserved the right to buy the railways in Manchuria after a certain period, the effect of the plan was simply to anticipate that date. But the nations making the loan were also to participate in the management of the railways, at least for a time. The plan for "neutralization" of the Manchurian railways formed an integral part of the general policy of the United States towards China and her railway projects[42]—"a policy of righteousness, tempered by enlightened self-interest."[43]

The reply of the British Secretary, Sir Edward Grey, on November 25, 1909,[44] approved the plan in principle, but suggested delay, at least until the Hukuang loan should have been completed. Although China itself approved the neutralization plan,[45] both Russia[46] and Japan[47] objected. As the nearest neighbours of China they had been vying with one another in their attempts to secure exclusive control in territory nearest them, even to the point of bloodshed. Now, however, the erstwhile enemies made common cause, and their final

representations to the Chinese Government coincide so closely in wording and date that one is led to believe there may have been some co-operation in their opposition. On January 31 and February 2, 1910, respectively, the Japanese and Russian ministers to Peking addressed the Chinese Foreign Office as follows:

Japanese Note

"Before the Chinese Government determines anything, the consent of my Government must first be obtained. If the position of my country is ignored and a decision is made without referring the matter to my Government, it will be hard to estimate the seriousness of the trouble that may be caused in the relations of the two countries."

Russian Note

"The Russian Government expects that China will not settle such matters without first consulting Russia. Otherwise there will be trouble in the relations between the two countries."

The German Government announced its approval of the neutralization plan,[48] but France, as an ally of Russia, and Great Britain also, because of treaty relations with Russia, finally registered opposition to the plan "until the Chinese had come to terms with Russia about it."[49]

The project, therefore, failed, and for a while it appeared as if Knox had blundered in thus forcing unwittingly a rapprochement between Russia and Japan for joint action in Manchuria,[50] but Secretary Knox, in thus suggesting a restraint upon the establishment of exclusive claims in Manchuria to the detriment of Chinese

sovereignty, had virtually served notice on all concerned that the United States would not stand by and see unmoved the dismemberment of China, including Manchuria. Although China is still struggling to extricate itself from the inequalities and injustices imposed by treaties,[51] the vigorous policy of Knox—had it been continued by President Wilson, and had not a civil war in China and the World War made it possible for Japan, while the attention of Russia and the Western world was concentrated elsewhere, to issue the famous Twenty-One Demands[52] and subsequently to strengthen its position by a more definite understanding with Russia[53]—might have sped the day of domestic tranquillity and of the redemption of the sovereign independence of China.

Secretary Knox's desire to keep open the whole of China to American commerce and investment, and to "sit in" with the other great powers to prevent any menace to the integrity of China following such foreign loans, resulted in the four-power Chinese consortium negotiations of 1909 and 1910. Early in 1909 it developed that French, German, and British banks were about to conclude a loan to China for the construction of a great railway system in the heart of the Yangtze Valley, whereupon the United States Government, relying upon promises made by the Chinese Government in 1903 and 1904, asserted the right to participate in the proposed loan. In the course of the negotiations President Taft resorted to the extraordinary step of communicating directly with Prince Regent Chun, head of the Chinese Government. A telegram, dated July 15, 1909,[54] explained his attitude in the matter and, by the way, also the American policy towards China in general:

"I am disturbed at the report that there is certain prejudiced opposition to your Government's arranging for equal participation by American capital in the present railway loan. To your wise judgment it will of course be clear that the wishes of the United States are based not only upon China's promises of 1903 and 1904, confirmed last month, but also upon broad national and impersonal principles of equity and good policy in which a regard for the best interests of your country has a prominent part. . . . I have an intense personal interest in making the use of American capital in the development of China an instrument for the promotion of the welfare of China, and an increase in her material prosperity without entanglements or creating embarrassments affecting the growth of her independent political power and the preservation of her territorial integrity."

The reasons for this energetic action on the part of the United States Government, which at first were not popularly understood, were reviewed by Secretary Knox in a statement given to the press on January 6, 1910:

"Railroad loans floated by China have in the past generally been given an imperial guaranty and secured by first mortgages on the lines constructed or by pledging provincial revenues as security. The proposed hypothecation of China's internal revenues for a loan [the Hukuang loan] was therefore regarded as involving important political considerations. The fact that the loan was to carry an imperial guaranty and be secured on the internal revenues made it of the

greatest importance that the United States should participate therein in order that this Government might be in a position as an interested party to exercise an influence equal to that of any of the other three Powers in any question arising through the pledging of China's national resources, and to enable the United States, moreover, at the proper time again to support China in urgent and desirable fiscal administrative reforms, such as the abolition of likin, the revision of the customs tariff and general fiscal and monetary rehabilitation."

Four and a half months later, on May 23, 1910, an agreement was reached between representatives of the banks of the four foreign countries, and on May 20 of the following year the loan agreement with China was signed by the four banking groups.[55] The admission of the American group, represented by Willard Straight, paved the way for American participation in the currency loan of 1911,[56] which, owing to the outbreak of the revolution at the close of the year, was never actually floated, and subsequent loans.

This "consortium" of banks of the four foreign nations was somewhat cautious about advancing money to the revolutionary Government, which therefore felt at liberty to seek funds elsewhere. It succeeded in securing a loan from a British banking firm without approval and co-operation of the British Government, with the salt revenues pledged as security. The result proved the impracticability of action independent of the "consortium"—less than fifty per cent was subscribed by the public in London.

Shortly after the four-power currency loan of 1911 the Russian and Japanese Governments requested and secured the admission of their banking interests into the consortium.[57] This six-power arrangement was disrupted, first by the withdrawal of official support of American banks by President Wilson in an announcement on March 18, 1913, and subsequently by the World War, which affected the German and Russian participation. Mr. W. W. Rockhill, skilled in oriental diplomacy, a short time before his death, in 1914, decrying the action of President Wilson, remarked:

> "I cannot pass it [American financial participation] by without mention of the permanent moral benefits it brought us, the practical assistance it rendered China while it lasted, in defending her rights and interests, and the profound regret of China and her friends when, moved by idealist views and imperfect information, the present administration saw fit, in the spring of last year, to withdraw its support from the American banks."[58]

Although Secretary Knox's policy, therefore, was repudiated for the time being upon the loftiest of motives, its practical wisdom was manifested by its subsequent revival and extension in the four-power consortium of 1920.[59] It is noteworthy that, in spite of differences of opinion in different administrations, "the United States is the only great nation that has maintained throughout its relations with China a consistent attitude of unselfishness and of a decent consideration and respect for the sovereign rights of the Chinese people."[60]

CHAPTER V

DOLLAR DIPLOMACY AND THE MONROE DOCTRINE

THE term "dollar diplomacy," however, has been more popularly associated with Secretary Knox's policy towards the Central American republics, and particularly Honduras and Nicaragua. He had not been long in office before he disclosed an intention to give Central American affairs a place of importance in his foreign policy. He believed that the elimination of the European powers from Latin America—a principle embodied in the Monroe Doctrine—imposed a heavy responsibility upon the United States, "in that we should respond to the needs still felt by some few of our Latin-American neighbors in their progress toward good government, by assisting them to meet their just obligations and to keep out of trouble."[61] In this he was, as he himself said, simply following the example of his illustrious predecessor with the Dominican Republic.

Central America had been in turmoil for some years. Revolutions had sapped the financial strength, not only by the expenses of the sinews of war, but also by the graft and corruption attendant upon the granting of monopolies and other concessions. A prime mover in these disorders was President Zelaya of Nicaragua.[62] Mr. Knox took advantage of an insurrection in Nicaragua and the execution of two Americans by the Nicaraguan Government to launch his plan in the "Knox note"

of December 1, 1909, dismissing the Zelaya representative in Washington.[63] His plan, as eventually evolved, was simple to the point of *naïveté:* stabilize the governments by reorganizing their finances and discountenance further revolutions by removing the motive, customhouses, beyond the attainment of prospective revolutionists.

Treaties putting this plan into effect were negotiated at Washington with Honduras, signed on January 10, 1911, and with Nicaragua, signed on June 6 following. The preambles point to the urgent necessity of the United States to assist the republics in the rehabilitation of their finances, and recite the fact that aid has been requested.

> "In order to avoid the danger of further embarrassment with foreign creditors, the conventions provide (first) that a loan shall be placed in the United States; in order to provide that the bankers' contracts, which it will be necessary to negotiate to work out the details of their financial problems, may be equitable and just, and also that they may be properly executed, it is provided (second) that the Signatory Governments shall take due note of the terms and shall consult in case of any difficulties. That the loan may be properly secured, the conventions stipulate (third) that the customs duties shall be pledged; that this security may be adequate and may not be interfered with, it is agreed (fourth) that the customs duties shall not be changed without the consent of the Government of the United States. To assure the proper collection and administration of the customs by a

competent person, it is provided (fifth) that a receiver-general of customs shall be appointed by the Government of the country concerned from a list of names prepared by the fiscal agent of the contemplated loan and approved by the President of the United States. To insure the proper discharge of the duties of the receiver-general of customs, it is agreed (sixth) that he shall be under obligation to report annually, and upon request, to both parties to the conventions. In order that he may effectively, conscientiously, and independently perform his functions, and to prevent customs houses continuing to be the goal of revolutionists, it is stipulated (seventh) that the Government of the country concerned will protect him, and (eighth) that the Government of the United States shall afford him such protection as it may deem requisite, there being thus obtained just so much assurance of stable conditions and proper customs collections as will enable Nicaragua and Honduras to borrow the money necessary to rehabilitate their national finances at anything like a reasonable rate of interest."[64]

The conventions themselves were quite separate from any bankers' contracts. The latter were simply made possible by the former. Secretary Knox also devised a Nicaraguan claims commission, composed of two Americans and one Nicaraguan—not an international court, but a national court acting under the laws of Nicaragua—to determine the validity of claims and apportion the amounts due.[65] The Government of Nicaragua approved the convention and before the latter could be ratified

by the United States Senate, had placed a preliminary loan with American bankers, engaged one American as financial adviser, two as claim commissioners, one as collector-general of customs, and one as assistant collector-general of customs.

Whether opposed to "dollar diplomacy" in general or peevish at the proleptic execution of the treaty, the Senate refused to ratify, and consequently the bankers declined to make further advances. A revolutionary outbreak induced the Nicaraguan Government to request American assistance and accordingly marines were landed at Corinto in the latter part of 1911. Although the revolution was thus put down, the Nicaraguan Government again began to feel the pinch of poverty.[66] Foreign creditors were becoming restless, but some hope for relief appeared in the desire of German interests for an interoceanic canal through Nicaragua. Secretary Knox lost no time, therefore, in negotiating another treaty, agreeing to pay Nicaragua three million dollars in return for an exclusive right of way for a canal through her territory, a naval base on the Gulf of Fonseca and a ninety-nine year lease of Great Corn and Little Corn Islands in the Caribbean. The treaty was submitted to the Senate too late to secure ratification before the end of the Taft Administration, but the Wilson Administration followed the same policy, and virtually the same treaty, though considerably amended by the Senate, called the Bryan-Chamorro Treaty, was ratified by the Senate on February 18, 1916[67]— vindication again of the wisdom of Knox's policy.

"Dollar diplomacy," however, was not without its enemies in Central America,[68] as well as in the United

States. To probe the depth of this sentiment and to allay unwarranted suspicions of ulterior motives on the part of the United States, Secretary Knox made a "swing around the circle" early in 1912, making speeches and addresses in Panama, Costa Rica, Nicaragua, Honduras, Salvador, Guatemala, Venezuela, the Dominican Republic, Haiti, and Cuba[69]—the first Secretary of State to visit the republics of the Caribbean "for the purpose of making the personal acquaintance of their leaders and studying at close hand their special problems."[70] It will be noted that he failed to visit Colombia and Mexico—the former because of the Panama Canal episode occurring in the Roosevelt Administration, and the latter because of the disturbed conditions there.

In no uncertain terms did the Secretary of State disclaim imperialistic ideas. In Nicaragua, for instance, at a solemn session of the National Constitutional Assembly, held in his honour, he declared in reply to Dr. Ignacio Suárez, president of that body:

> "I note, Mr. President, what you have said in regard to the existence of some apprehension here and in other republics of Latin America as to the true motives and purposes of the United States toward them under the Monroe Doctrine. I beg to assure you, and I am sure that what I say meets the approval of the people and President of the United States, that my Government does not covet an inch of territory south of the Rio Grande. The full measure and extent of our policy is to assist in the maintenance of republican institutions upon this hemisphere, and we are anxious that the experiment of a government

of the people, for the people, and by the people shall not fail in any republic on this continent. We have a well-known policy as to causes that might threaten the existence of an American republic from beyond the sea. We are equally desirous that there shall be no failure to maintain a republican form of government from forces of disintegration originating from within; and so far as we may be able we will always be found willing to lend such proper assistance as may be within our power to preserve the stability of our sister American republics."[71]

Another corollary to the Monroe Doctrine was also developed during the Taft Administration—namely, that Asiatic as well as European nations must not be allowed a foothold on this continent. In the latter part of 1911 an American syndicate desired to sell a four-hundred-thousand-acre tract of land in Lower California, including Magdalena Bay, to a Japanese syndicate.[72] The latter, however, were unwilling to buy without some assurance that the State Department had no objection. Secretary Knox declined "to make further comment" beyond suggesting "that such a transfer would be quite certain to be interpreted in some quarters in a manner to cause a great outcry." A proposal for American control of an American-Japanese syndicate brought a no more favourable reply. The Senate got wind of the proposed sale and requested information of the Secretary,[73] and three weeks later the correspondence between the Secretary and the owner's agent.[74] As a result Senator Lodge presented a resolution putting Knox's actual policy into words and declaring that:

"When any harbor or other place in the American continents is so situated that the occupation thereof for naval or military purposes might threaten the communication or the safety of the United States, the government of the United States could not see, without grave concern, the possession of such harbor or other place by any corporation or association which has such relations to another government not American as to give that government practical power of control for naval or military purposes."

Though passed by a vote of fifty-one to four, it was not acceptable to President Taft,[75] who did not wish to give further offence where no offence was intended. The incident is noteworthy in that it was the first application of the Monroe Doctrine to Japan, an extension of it to the occupation of American soil by a foreign corporation on the ground that such possession would afford an opportunity for political influence, and an extension of it to cover private commercial transactions in America.[76]

There is little to add, in a sketch of this length, of Knox's policies towards Latin-American problems beyond stating that in the Panama Canal tolls matter his hands were tied, in that he was obliged to uphold existing legislation, and that repeated efforts to mollify Colombia for her loss of Panama were unavailing, while towards Mexico, in the trying period of readjustment after years of dictatorship, he consistently maintained a friendly neutrality—a policy of moderation and restraint developed by the succeeding Administration.

CHAPTER VI

PEACE-MAKER

"THE willingness of the United States," declared Secretary Knox in a public address some fifteen months after he entered office,[77] "amicably to compose its own differences with other governments and its efforts to secure the general acceptance of the principle of international arbitration make a fine and consistent chapter in our diplomatic history." His entire administration gives ample evidence of his attempts, successful and otherwise, to bring to a happy issue the efforts of his predecessors in this direction and to inaugurate the solution of other questions that might be sources of international discord.

The Bering Sea controversy,[78] arising out of the interpretation of the Russian treaty of cession of 1867,[79] and involving as it did the very existence of the valuable seal herd that frequented the Pribilof Islands, had finally been arbitrated under the treaty signed at Washington, February 29, 1892, and decided in 1893,[80] for the most part adversely to the United States. Regulations were suggested by the arbitrators for the protection of the seals. These were to be revised every five years, but by 1898, when the time limit first expired, they had proved so inadequate that the British and American experts were unable to agree upon their modification. The crux of the matter was that Canadians were slaughtering the seals in great numbers at sea,

while Americans were prohibited from pelagic sealing by act of Congress. Matters reached such a pass that President Roosevelt in his annual message of 1906, by way of retaliation, suggested to Congress the extermination of the herd by the United States "to put an end to the hideous cruelty now incident to pelagic sealing."

It was not until Taft's Administration, however, that the matter was settled, by a joint treaty with Great Britain, Russia, and Japan, signed at Washington on July 7, 1911.[81] Pelagic sealing was to be prohibited north of latitude thirty degrees north, including the seas of Bering, Kamchatka, Okhotsk, and Japan, for a period of fifteen years and thereafter until terminated by a year's notice. Great Britain and Japan were each to receive fifteen per cent of the skins taken off the shores of the United States and Russia, and the United States, Great Britain, and Russia were each to receive ten per cent of the skins taken off the shores of Japan. An act of Congress of 1912 prohibited all killing whatsoever on land for a term of years to give the seals opportunity to recover from the devastating inroads upon their numbers.

About the same time another modification of the traditional three-mile limit of maritime jurisdiction was effected by the decision of the Permanent Court of Arbitration at The Hague, on September 7, 1910, in the North Atlantic fisheries case. This involved the right of the Canadian and Newfoundland Governments, without the consent of the United States, to impose unwarranted restrictions upon American fishermen. The question had been submitted to arbitration by a special agreement signed at Washington on January 27, 1909, by Secretary Root.[82] Although the decision was largely

a compromise and mainly in favour of Newfoundland, it redounded to Knox's credit in that it provided for a method of settling disputes arising thereunder as fast as they arise.[83]

More unsuccessful in the final outcome, but none the less noteworthy, was the attempt to establish a reciprocity agreement with Canada.[84] A previous treaty, a half-century before, had been denounced in 1865 by the United States after but eleven years, as a retaliatory measure against Great Britain. The Payne-Aldrich tariff of 1909 seemed to subject Canada to the maximum rates. Several provinces accordingly imposed export restrictions upon pulp-wood logs, and the Dominion itself negotiated a commercial treaty with France granting tariff concessions not enjoyed by the United States. In this contingency President Taft was unwilling to risk a disastrous tariff-war without further procedure. Commissioners were sent to the Dominion to discuss the situation. On March 19, 1910 the chief executive himself and Earl Grey, Governor-General of Canada, spoke at the same banquet-table in Albany on Canadian-American relations. On the same date he conferred with Mr. Fielding, the Canadian Minister of Finance. In January 1911 he recommended reciprocity with Canada in a special message to Congress. He realized that there was not the impelling urge on the part of Canada now that had existed fifty years before and that therefore some inducement must be offered to Canada.

It was difficult, however, to do this without compromising the time-honoured American interpretation of "most-favoured-nation" clauses in our treaties with other nations, especially in view of the elastic provisions

of the Payne-Aldrich tariff. Before the middle of February 1910 Secretary Knox had successfully negotiated that the minimum rates under this law should apply to Great Britain, Russia, Spain, Italy, Turkey, Switzerland,[85] Denmark, the Netherlands, Norway, Sweden, Belgium, Portugal, Persia, Egypt,[86] Germany,[87] Mexico, Brazil, Argentina, Panama, Paraguay, Uruguay, and Liberia.[88] It will be seen, therefore, that special trade-concessions to Canada might easily have led to complications. The delicate negotiations, almost entirely oral and informal, were in charge of Knox; the letter of Mr. Fielding and his associate to Knox, and the latter's reply, are the only official documents of any importance. The arrangement was to take the form of concurrent legislation because Canada wished to be free to annul it at any time if it should prove to be against Canadian interests.

It was a strange spectacle for an Administration of traditional protectionist background supporting a proposal bordering on, if not directly leading to, free trade, and in the enterprise relying upon political opponents for assistance.[89] For this is precisely what happened. The bill providing for the reciprocity agreement, being a money bill, was introduced first in the House of Representatives, where it was approved on April 21, 1911, by a substantial majority, but the Senate did not yield without a struggle. In fact, Mr. Taft felt it necessary to go over the Senate and appeal, as did Wilson later, to the people. In an address delivered before the Western Economic Society at Chicago, on June 3, 1911,[90] he explained all the advantages and explained away all the objections that had been offered, with the result

that in the following month the Senate likewise passed the measure. On July 26, 1911 it was signed by President Taft and became a law.

The victory was more apparent than real. Some ill-considered remarks made by annexationist politicians in the United States in the course of the debate on the arrangement produced a nationalistic resentment in Canada, which was seized upon and carefully nurtured by the big interests in Canada opposed to reciprocity, and by the political enemies of the Laurier Government, who were only too glad to have an issue upon which to encompass its downfall. For instance, ex-President Roosevelt had declared that adoption of the measure "would make Canada only an adjunct of the United States." The result was the rejection of the arrangement by the Dominion Parliament. But here again the policies of Taft, unsuccessful for the nonce, were destined for ultimate vindication; for some of the things aimed at by reciprocity were accomplished by the United States tariff of 1913, and his efforts at reciprocity, as one writer expresses it, "will loom forth as a mile-stone in the evolution from protection to free trade."[91]

Still less successful were the attempts to secure ratification of the general arbitration treaties with Great Britain and France. These were more or less in accord with a model treaty devised by the Hague Conference. Secretary Hay had concluded treaties of this character, and they had been referred to the Senate by President Roosevelt, but the Senate had refused to accept the President's view-point that the special agreements in individual arbitrations should not require ratification by the Senate. This objection was met by Secretary

Knox, who in 1911 negotiated similar treaties, yielding the point. He himself attempted to forestall opposition in a careful yet simply worded address before the American Society for Judicial Settlement of International Disputes, at Cincinnati, Ohio, on November 8, 1911:

> "The treaties are simple in language and plan and are easily understood. They purport to deal with two kinds of differences: those which in their nature are arbitrable and those which are not. As to those which are arbitrable it is provided that they shall be arbitrated. As to those which are not arbitrable it is provided that they shall be the subject of deliberate inquiry, investigation, and advice. As to those differences concerning which the executive officers of two nations can not agree as to the class to which they belong, that question is to be decided by a joint commission of citizens of the countries concerned, unless the two countries decide by agreement between them to constitute the commission otherwise."[92]

The Senate inclined to the opinion that if these commissions found that the dispute was one for arbitration, then arbitration became obligatory. To meet this, Senator Lodge offered, as a part of the ratification resolution, a proposal making it clear that the Senate reserved its constitutional freedom of action to pass upon special agreements for arbitration, even when these commissions had decided that the matter was one for arbitration. In the course of his remarks[93] supporting the resolution, Senator Lodge called attention to two facts: first, that if these treaties were adopted, we could not

refuse to make similar ones with other nations with whom our relations might not be so fortunately disposed; and, second, that "all the differences with other nations in which we shall be involved will be American questions," except for pecuniary claims, "which are not serious as a matter of international difference." What was in Lodge's mind particularly was Japan, with whom a gentleman's agreement had just been entered into regarding Japanese immigration on the Pacific coast. To show the proximity of the danger, the Magdalena Bay episode mentioned above was brought forward as being a likely matter for arbitration if Japan should secure a treaty similar to the two under discussion and it were ratified without the reservation he proposed. The treaties were allowed to lapse, therefore, because the Administration was unwilling to admit the implications of the Senate's position. In 1915 the Bryan peace treaties met this objection and were promptly ratified. It seems as if the Knox peace policies were doomed to failure, only to be vindicated by subsequent events.

In like manner a proposal in the fall of 1909 to establish a court of arbitral justice in accordance with the recommendations of the Hague Conference proved abortive, although it was most favourably received by the powers to whom Knox had sent his circular note on the subject.

In spite of some of the failures at gestures towards peace, at the end of the Knox administration of the Department of State there was no international dispute of importance that had not been settled or started on the way to settlement, and even the failures, in the light of subsequent events, have appeared to be inte-

gral parts of the ultimate solution of the problems that they had apparently failed to solve. Much of the success of the next administration along these lines would perhaps have been impossible, or much more difficult of attainment, had not Knox paved the way by his successful failures.

CHAPTER VII

THE FIGHT AGAINST THE LEAGUE; SEPARATE PEACE

IT may seem strange that one who had displayed such a regard for international peace and the judicial settlement of international disputes should have become, in 1919, a bitter and unyielding opponent of the Treaty of Versailles with its Covenant providing for a League of Nations to ensure peace without the resort to arms. Yet here is in fact no inconsistency, but consistency itself. It was precisely because of his pacific and legalistic frame of mind that he threw himself with such vigour into the fight against ratification.

The success of the Democrats at the polls in the fall of 1912 brought about by the split in the Republican party, of course automatically terminated Knox's services as Secretary of State after March 5, 1913. His loyalty to his former chief and his interest in peace did not lag on this account. In October 1914 we find him inviting Taft to deliver the principal address at a great peace meeting in Pittsburgh under the auspices of the city, at which he was to preside. He adds: "I am located here endeavoring to make a living by practising law in a way, i.e., honestly."[94] A month later he quiets Taft's misgivings with regard to his denunciation of the Russian treaty in 1911 at the time of the Jewish passport episode.[95] Again in 1916 when the charge was made that Wilson's difficulties with Mexico had been inherited

from Taft, he vigorously denies it in a public address, contending that Taft's policies rested upon established precedent, while Wilson's had been and were without the first suggestion of precedent.[96]

In 1916 his hankering for public service and his desire to participate in the legislative activities incident to the World War induced him to stand for election to the Senate again. Accordingly, on November 6, 1916, he was elected to succeed George T. Oliver as Senator from Pennsylvania for the term 1917 to 1923. Although death was to interrupt his term, it was not before he had played a conspicuous role in the peace settlement.

The story of the fight in the Senate against the League of Nations Covenant embodied in the Treaty of Versailles is a lengthy and intricate one and is treated in the sketch of Lansing in the next volume of this series. It will be sufficient here to recount the influence exercised by Knox upon the proceedings. As a member of the Senate Committee on Foreign Relations he had participated in conferences at the White House with Lodge, Gallinger, Brandegee, and others upon various matters that had arisen prior to the armistice, notably the Pope's peace proposal of August 1917,[97] and also during the peace negotiations when President Wilson, on his return from Paris, was attempting to secure the views of the senators on the proposed constitution for a League of Nations.[98]

It was shortly after the latter conference, which took place on February 26, 1919, that Knox and Lodge delivered their speeches in support of the separation of the Treaty of Peace from the Constitution of the League of Nations.[99] As the Congress was to expire on March 4

and President Wilson was scheduled to leave for Paris again on the day following, a number of the Republican leaders believed it advisable to let the President, and, in fact, the whole world, know that more than one-third of the senators considered the Constitution of the League of Nations to be unacceptable in the form then proposed.

It was Knox who was called upon to draft the famous round robin, which was signed by thirty-seven Republicans, a few of whom were senators-elect, and read into the *Record* by Lodge shortly after midnight on March 4.[100] This proposed resolution was cited with effect by Lodge in the subsequent fight to refute the claim that the United States Senate was morally bound to accept the treaty signed by the representatives of the United States.

Public sentiment against the treaty began to grow after the adjournment of Congress, and the new Congress, assembled on May 19, had been in session but a short time when Senator Knox introduced his resolution to separate the covenant from the treaty. Although the treaty itself was not signed until June 28, an unofficial text had reached the Senate as early as June 9.[101] The following day Knox introduced his resolution—a definite step on the part of the opponents of the treaty to forestall its ratification before it was even presented by the President. In spite of Lodge's active support, the resolution failed, but it was a "Knox failure," destined for ultimate success.

President Wilson personally submitted the treaty to the Senate on July 10, 1919; and the Committee on Foreign Relations, to which it was referred in accord-

ance with the rules of the Senate, decided to hold public hearings. These began on July 31 and ended on September 12, and the complete verbatim report reached a total of 1297 pages.[102] Conspicuous in these hearings was a conference at the White House on August 19, 1919, in which Knox, together with other senators, participated. In the course of the conference, which was a veritable inquisition of the President, Senator Knox epitomized the position of the "reservationists" when he said:[103]

> "If we embody in our resolution of ratification a statement that we understand section 10 or section 16 or section something else in a particular sense, and this Government, through its foreign department, transmits the proposed form of ratification to the chancellors of the other nations that are concerned in this treaty, and if those interpretations are the same as you have agreed upon with them in your conversations, I do not see how we would need anything more than a mere reply to that effect."

And when the President remarked: "It would need confirmation," he answered: "Yes; it would need confirmation in that sense."

Scarcely two weeks after this conference President Wilson decided to follow the example of Taft in the Canadian reciprocity matter and appeal directly to the people. But it was useless. The Senate had made up its mind. A decisive vote came on November 19, and, lacking the necessary two-thirds, the treaty failed of ratification.

Congress reassembled on December 1, 1919, and the treaty again came before the Senate, but after dragging along until March 19 suffered the same fate. The charge of "bad faith" was not absent against those who had voted for reservations and then against the ratification. Knox was in this number, and on the day of the final vote he explained his position and explained away any seeming inconsistency:[104]

> "I voted for the reservations because I wanted to make the treaty as little harmful and as little obnoxious to our Constitution and the spirit and institutions of my country as it was possible, keeping in view the temper of the committee and the temper of the Senate. But, Mr. President, while these reservations have been helpful in that direction, in my deliberate judgment, formed after the most careful and painstaking study of this instrument, a study undertaken with no original attitude of unfriendliness toward it, as it stands with these reservations it is my judgment that it imposes obligations upon the United States which under our Constitution cannot be imposed by the treaty-making power. It delegates powers and functions to an extraneous body of such a nature that only the people of the United States by an amendment to the Constitution could confer."

The corollary of the rejection of the Versailles Treaty was a separate peace with Germany. In fact, this was part of the Knox resolution of June 10, prior to the submission of the treaty, and the Knox resolution of November 18, a proposed substitute for the resolution

of ratification. Although both of these efforts had been failures, when the treaty itself failed, Senator Knox, on May 21, 1920, proposed another resolution, this time to repeal the declarations of war against Germany and Austria. The resolution was passed, but President Wilson followed an equally consistent policy and vetoed it on May 27,[105] because "it does not seek to accomplish any of those objects" for which the United States entered the war.

The Wilson Administration came to an end on March 4, 1921. Less than eight weeks later a joint resolution declaring the war at an end was introduced and, after passage by both houses, was signed by President Harding on July 2, 1921. Accordingly, a separate peace was negotiated and signed with Germany on August 25 and submitted to the Senate on September 21. Three weeks later Knox suddenly died, but not before realizing this long-postponed victory and vindication.

An English writer of note gives the following keen appraisal of Knox and his foreign policy:

> "Mr. Knox, a clever corporation lawyer, became Secretary of State under the new administration. The new Secretary of State was an agreeable, upright man, entirely free of unworthy motives, who brought to the conduct of international affairs the shrewd, keen intellect of a business lawyer 'eager to force circumstances rather than to guide and use them as they came.' . . . In contradistinction to his predecessor, who had been studious to adopt an attitude of friendly equality towards the Southern neighbours of the United States, Mr. Knox sometimes failed in due

consideration for the feelings of the weaker nations. He was all for a spirited foreign commercial policy, descrying in China a new and illimitable field for American enterprise, and in the Latin States of Southern America a group of commercial vassals who should obey the nod of a Protecting Power. Thus, by certain minor faults of manner and method, the new Secretary of State impaired the influence which the wise policy of Mr. Root had painfully secured for the United States among the Governments of the Southern hemisphere."[106]

While there is considerable truth in this appraisal, a careful study of Knox's career has convinced the present writer that the *obiter dictum* of one of his contemporary countrymen in the course of his memoirs as a diplomat is perhaps more accurate and more just:

"Philander Knox was in some respects a master mind in the management of foreign affairs. With the restraints imposed by judicial training and traditions, he clearly understood the proper direction of our foreign relations, their scope and their limitations; his presentation of a policy or interpretation of the aspects of a foreign question was accurate, but his life-long training in the law and his profound reverence for orderly and calm procedure sometimes affected or delayed the vigour of his action in acute crises. Honest by the highest standards and saturated with our own traditions, it was not always easy for him to understand that foreign chancelleries might not be actuated by similarly high motives. He recoiled from

questioning the good faith of the representatives of foreign governments and, imbued with the spirit of our own tribunals, reluctantly impugned the uprightness of the courts of other countries. He was eminently just, quick to recognize and acknowledge his own mistakes, and possessed withal a generous, kind and loving disposition. The details of the work of the Department of State wearied him almost to the point of cynicism, and he fled from them as frequently as the executive work would permit; but, as I have reason to know, his moments of apparent leisure were given to the study and preparation of the really great state policies and papers associated with his name."[107]

APPENDICES

APPENDIX

TO SKETCH OF SHERMAN

BIBLIOGRAPHICAL NOTE

The chief source for the present study was the *Instructions* issued by the State Department to United States ministers in many countries. Access to these is gratefully acknowledged. The Sherman Papers in the Library of Congress as a major collection close with 1893, but some important letters for the period in review may be found in a single volume of miscellaneous papers. It is regretted that the McKinley Papers could not be consulted, but their custodian, the Honourable George B. Cortelyou of New York, formerly private secretary to President McKinley, informed the author that the *Life of William McKinley*, by Charles S. Olcott, was based upon these papers, the President's position on the Cabinet appointment being fairly stated in Volume I, pages 327–336. The account of Sherman's career previous to his year as Secretary of State is based chiefly on Theodore E. Burton's *John Sherman* (Boston, Houghton Mifflin Co., 1906). A two-volume life of Sherman by Winfield S. Kerr is of special interest for the human side of the subject. Sherman's autobiography, *Recollections of Forty Years* (Chicago, 1895), concludes with 1895, and bears but indirectly on the present study. Other printed sources include *Foreign Relations, 1897–1898;* and *Spanish Diplomatic Correspondence and Documents, 1896–1900* (translation, Washington, 1905). The decade of the nineties has already yielded a considerable harvest of reminiscence and some serious historical studies. Not all of those consulted by the author are referred to in the footnotes. To the student of the subject the following are commended:

Adams, Charles Francis, *1835–1915, An Autobiography* (Boston and New York, 1916); Benton, Elbert J., *International Law and Diplomacy of the Spanish-American War* (Baltimore, 1908); Burton, Theodore E., *John Sherman* (Boston and New York, 1908); Chadwick, French Ensor, *The Relations of the United States and Spain, Diplomacy* (New York, 1909); Clark, Champ, *My Quarter Century of American Politics* (2 volumes, New York, 1921); Croly, Herbert, *Marcus Alonzo Hanna* (New York, 1912); Cullom, Shelby M., *Fifty Years of Public Service* (Chicago, 1911); Denby, Charles, *China and Her People* (2 volumes, Boston, 1906); Dunn, Arthur Wallace, *From Harrison to Harding* (2 volumes, New York and London, 1922); Flack, Horace Edgar, *Spanish-American Diplomatic Relations Preceding the War of 1898* (Baltimore, 1906); Foraker, Joseph Benson, *Notes of a Busy Life* (2 volumes, Cincinnati, 1916); Foster, John W., *Diplomatic Memoirs* (2 volumes, Boston and New York, 1909); Harding, Lewis A., *The Preliminary Diplomacy of the Spanish-American War* (Indianapolis, 1912); Harn, George U., *John Sherman* (Columbus, 1908), pamphlet, reprint from *Ohio State Archæological and Historical Society Publications*, Volume XVII, no. 3 (1908); Kerr, Winfield S., *John Sherman, His Life and Public Services* (2 volumes, Boston, 1908); Kohlsaat, H. H., *From McKinley to Harding, Personal Recollections of our Presidents* (New York and London, 1923); Latané, John H., *America as a World Power, 1897–1907* (New York and London, 1907); Olcott, Charles S., *The Life of William McKinley* (2 volumes, Boston and New York, 1916); Paxson, Frederic L., *Recent History of the United States* (Boston, New York, etc., 1926); Rhodes, James Ford, *The McKinley and Roosevelt Administrations, 1897–1909* (New York, 1922); Sherman, John, *Recollections of Forty Years in the House, Senate, and Cabinet, an Autobiography* (2 volumes, Chicago, London, New York, Berlin, 1895); Thayer, William Roscoe, *The Life and Letters of John Hay* (2 volumes, Boston and

New York, 1915); White, Andrew Dickson, *Autobiography* (2 volumes, New York, 1905).

FOOTNOTES

[1] Charles Francis Adams, *An Autobiography*, 47.

[2] John Sherman Papers, Library of Congress, Sherman to W. S. Ward, April 28, 1898.

[3] Joseph B. Foraker, *Notes of a Busy Life*, I, 499–500.

[4] William Roscoe Thayer, *The Life and Letters of John Hay*, II, 156.

[5] Charles S. Olcott, *The Life of William McKinley*, I, 334 (February 8, 1897).

[6] Sherman Papers, Sherman to Richard Smith, Washington, February 9, 1897.

[7] For pungent criticisms of political conditions in Ohio at this period see Champ Clark's *My Quarter Century of American Politics*.

[8] Herbert Croly, *Marcus Alonzo Hanna*, 236.

[9] Though not sufficiently important for the body of the text, the South American diplomacy of Sherman is here presented for the benefit of those readers who may wish a fuller statement of his policy. Some reference to the Argentine Republic is included in the text. Towards Brazil the United States was the complainant. Brazil imposed an import duty on our flour and an export duty on her coffee. Our minister was instructed, therefore, while avoiding threats, nevertheless to remind the Brazilian Government that the American executive might be compelled eventually to retaliate. With respect to Colombia, a certain interest attaches to the amalgamation of the American Panama Railroad Company with the Panama Canal Company (French), an action closely watched at Washington. Colombia was believed to seek undue

advantage from the treaty of 1846. Reciprocity was fair enough, but she need expect no more than that. Almost a year before the war with Spain the question of contraband arose with Uruguay. Controversy centred about the subject of horses. The question fell within the purview of John Bassett Moore, but the signature was Sherman's. Horses could not normally be counted contraband, the United States maintained, but even granting that they might be, "confiscation of horses *bona fide* owned and used by an alien" would not be justified. A British claim regarding rice was cited as analogous. No such important principles involved relations with Bolivia and Peru. There were irritations none the less. Towards Bolivia there was indignation at the law's delays in the trial of an American citizen, then more than three years pending. A minor issue related to the signature of the American minister on the death warrant of a Bolivian sentenced for the murder of an American. Secretary Sherman held that such action was unnecessary unless the convicted man was an American citizen. He thought it strange that the Bolivian Government should thus invite participation in its domestic concerns. With Peru the rights and dignity of an American consular agent were at issue. The agent had fallen into debt. His property was attached. In executing the attachment Peruvian officials violated the consul's office. Official papers were carried away and scattered. In view of this "intolerable disrespect to the archives of the Agency," the minister's instruction was worded strongly. "You are instructed to ask for a disavowal of the acts of the local authorities, for their reprimand, and for a guarantee that such an incident shall not recur." The consul was subsequently dismissed. In 1897 slight developments in Nicaragua and Santo Domingo were suggestive for the future. In the former the concession of the Maritime Canal Company was an object of concern. Towards the latter, precautions were considered against the supersession of American-owned bonds by later issues hav-

ing prior lien—a well-known vagary of Dominican finance. Strained relations between Venezuela and Germany led to inquiry by our minister as to the propriety of granting asylum to harassed Germans. The State Department in reply distinguished between a right of asylum, which in the German case of course did not exist, and the free granting of refuge to men in sore distress. "Under no circumstance," declared the Secretary, "could any assurance be given in advance of the actual emergency."

The Department's correspondence on these issues may be found in Department of State, *Instructions, Argentina*, XVII, November 8, 1897; *Ibid.*, January 6, 1898; *Ibid.*, January 11, 1898; *Brazil*, XVIII, August 11, 1897; *Colombia*, XVIII, May 17, 1897; *Ibid.*, November 26, 1897; *Uruguay*, May 27, 1897; *Bolivia*, II, December 27, 1897; *Ibid.*, March 24, 1898; *Peru*, XVIII, June 26, 1897; *Ibid.*, December 30, 1897; *Nicaragua*, XXI, April 3, 1897, telegram; *Dominican Republic*, October 26, 1897; *Venezuela*, IV, November 24, 1897.

[10] Department of State, *Instructions, Argentina*, XVII, January 11, 1898.

[11] *Ibid.*, *Instructions, China*, V, May 18, 1897; June 11, 1897; July 8, 1897; December 14, 1897.

[12] *Ibid.*, April 14, 1898.

[13] *Ibid.*, February 7, 1898.

[14] *Ibid.*, March 8, 1898.

[15] *Ibid.*, *Instructions, Korea*, I, March 30, 1897.

[16] *Ibid.*, *Instructions, Denmark*, XVI, July 23, 1897, signed by Alvey A. Adee.

[17] *Ibid.*, *Instructions, Japan*, IV, June 25, 1897.

[18] John W. Foster, *Diplomatic Memoirs*, II, 173.

[19] Department of State, *Instructions, Japan*, IV, December 14, 1897.

[20] *Ibid.*, *Instructions, Italy*, III, December 24, 1897.

[21] *Ibid.*, *Instructions, Austria-Hungary*, December 14, 1897.

[22] *Ibid.*, *Instructions, The Netherlands*, February 28, 1898. Telegram.

[23] *Ibid.*, March 2, 1898.

[24] *Ibid.*, *Instructions, France*, XXIII, July 2, 1897, protests prohibitive tariff.

[25] *Ibid.*, *Instructions, Germany*, XX, April 20, 1897; June 14, 1897; August 20, 1897; see also *Switzerland*, III, May 12, 1897.

[26] *Ibid.*, August 11, 1897.

[27] *Ibid.*, February 11, 1898.

[28] *Ibid.*, *Instructions, Russia*, XVII, June 18, 1897; see also *Persia*, I, July 15, 1897, for safeguarding of Jewish interests.

[29] *Ibid.*, *Russia*, XVII, telegram, cipher, March 16, 1898.

[30] *Ibid.*, February 25, 1898.

[31] *Ibid.*, *Instructions, Great Britain*, XXXII, May 10, 1897.

[32] John W. Foster, *Diplomatic Memoirs*, II, 184.

[33] *Ibid.*

[34] *Ibid.*, April 9, 1897. Also Department of State, *Great Britain, Notes*, XXIII, of same date.

[35] *Ibid.*, *Instructions, Great Britain*, XXXII, November 29, 1897.

[36] *Ibid.*, telegrams, September 20, 1897; and September 25, 1897.

[37] *Ibid.*, November 22, 1897.

[38] For this interpretation, see French Ensor Chadwick, *The Relations of the United States and Spain*, 437–438, 490–491.

[39] John Sherman, *Recollections of Forty Years in the House, Senate and Cabinet, An Autobiography*, II, 1216.

[40] Department of State, *Instructions, Spain*, XXII, February 23, 1898.

[41] Department of State, *Instructions, Spain*, XXII, Washington, June 30, 1897.

[42] *Ibid.*, *Great Britain*, XXXII, same date.

[43] *Ibid.*, *France*, XXIII, same date.

[44] *Ibid.*, *Germany*, XX, same date.

[45] *Ibid.*, *Spain*, XXII, telegram, April 20, 1898.

[46] William Roscoe Thayer, *The Life and Letters of John Hay*, II, 173.

APPENDIX

TO SKETCH OF DAY

BIBLIOGRAPHICAL NOTE

Here and there in the manuscripts of the Department of State may be gleaned some material not yet printed and affording some new light on certain aspects of the diplomacy of Day's secretaryship; the most fruitful places have been the dispatches from the representatives of the United States in London, Berlin, and Madrid. A little additional material is found in the unprinted instructions.

The most important documents published by the Government of the United States and bearing on this period are *Papers relating to the Foreign Relations of the United States* for 1897 and 1898 (Wash., 1897 and 1898); *Message of the President of the United States communicated to the two Houses of Congress, on the relations of the United States and Spain by reason of warfare in the Island of Cuba* (H. Doc. 405, 55 Cong., 2 Sess.); *Consular Correspondence respecting the condition of the Reconcentrados in Cuba, the State of War in that Island, and the Prospects of the projected Autonomy* (H. Doc. 406, 55 Cong., 2 Sess.); *A Treaty of Peace between the United States and Spain*, Message from the President of the United States transmitting a treaty of peace between the United States and Spain, signed at the City of Paris on December 10, 1898 (2 volumes, Wash., 1899). The Department of State published in Washington in 1905 a translation of *Spanish Diplomatic Correspondence and Documents, 1896–1900: Presented to the Cortes by the Minister of State*, in which some material not previously published is to be found. Calderon Carlisle's *Report* to E. Dupuy de Lôme, Spanish Minister, (2 volumes, Wash., 1896–1897) tells about filibustering.

Some interesting sidelights are gathered from Volume XV of *Die Grosse Politik der Europäischen Kabinette, 1871–1914: Sammlung der Diplomatischen Akten des Auswärtigen Amtes, im Auftrage des Auswärtigen Amtes, herausgegeben von Johannes Lepsius, Albrecht Mendelssohn Bartholdy, und Friedrich Thimme* (Berlin, Deutsche Verlagsgesellschaft für Politik und Geschichte, 1922 ff.). Some additional documentary material is cited in the notes.

Various bits of information are gathered from biographical works of one kind and another, but one looks in vain for any sketch of Day himself more comprehensive than an obituary notice in the New York *Times*. Some of the biographical works that have contained information or had illuminating comments include Shelby M. Cullom, *Fifty Years of Public Service* (Chicago, 1911); Arthur W. Dunn, *From Harrison to Harding* (2 volumes, N. Y. and London, 1922); Joseph B. Foraker, *Notes of a Busy Life* (2 volumes, Cincinnati, 1916); John W. Foster, *Diplomatic Memoirs* (2 volumes, Boston and N. Y., 1909); H. H. Kohlsaat, *From McKinley to Harding, personal recollections of our Presidents* (N. Y. and London, 1923); Charles S. Olcott, *The Life of William McKinley* (2 volumes, Boston and N. Y., 1916); Henry Cabot Lodge (ed.), *Selections from the Correspondence of Theodore Roosevelt and Henry Cabot Lodge* (2 volumes, N. Y., 1925); Royal Cortissoz, *The Life of Whitelaw Reid* (2 volumes, N. Y., 1921); William R. Thayer, *The Life and Letters of John Hay* (2 volumes, Boston and N. Y., 1915); Andrew D. White, *Autobiography* (2 volumes, N. Y., 1905); George M. Smalley, *Anglo-American Memories* (London, first series, 1910; second series, 1912).

Contemporary newspapers are useful in giving certain facts and in reflecting public opinion; among the most useful are the New York *Times*, the *Tribune* and the London *Times*, daily and weekly editions.

Special studies dealing with one or more phases of the diplomatic situation are Elbert J. Benton, *International Law*

and Diplomacy of the Spanish-American War (Baltimore, 1906); French E. Chadwick, *The Relations of the United States and Spain: Diplomacy* (N. Y., 1909); Horace E. Flack, *Spanish-American Diplomatic Relations preceding the War of 1898* (Johns Hopkins University *Studies in Political and Social Science*, No. 24; Baltimore, 1906); Lewis A. Harding, *The Preliminary Diplomacy of the Spanish-American War* (Indianapolis, 1912); Bertha Ann Reuter, *Anglo-American Relations during the Spanish-American War* (N. Y., 1924); *Hawaii's Story by Hawaii's Queen, Liliuokalani* (Boston, 1898); Jeannette Keim, *Forty Years of German-American Political Relations* (Philadelphia, 1919); Élie Lebraud, *La Guerre hispano-américaine et le droit des gens* (Paris, 1904); L. B. Shippee, "Germany and the Spanish-American War," *Am. Hist. Rev.*, XXX, 754–777.

Among the general accounts that devote some attention to the diplomacy of the Spanish-American War and the other questions that arose during the administration of the Department of State by William R. Day are John H. Latané, *America as a World Power, 1897–1907* (N. Y. and London, 1907) and *History of American Diplomacy* (N. Y., 1927); James Ford Rhodes, *The McKinley and Roosevelt Administrations, 1897–1909* (N. Y., 1922); and Carl Russell Fish, *American Diplomacy* (N. Y., 1923).

FOOTNOTES

[1] C. S. Olcott, *The Life of William McKinley*, I, 335–336.

[2] See Olcott, *McKinley*, *op. cit.*, and John W. Foster, *Diplomatic Memoirs*, II, 275–276.

[3] While the venerable editor confused two episodes, the spirit of a statement made by H. H. Kohlsaat in his recollections, *From McKinley to Harding* (64–65), rings true: "I was

with the President when a telegram was handed him. He said: 'It is from Judge Day, accepting the assistant Secretary of State. He gives up $15,000 a year to take a $4500 position. He would not do it if he did not love me.'" See editorial in New York *Tribune* of April 26, 1898 for an illustration of the kind of moral pressure that was being exerted.

[4] J. S. Foster, *Diplomatic Memoirs*, II, 172–173.

[5] The report of the Senate Committee on Foreign Relations (*Report* no. 681, 55 Cong., 2 Sess.) contains material on this question. Sherman's letter is found on pages 74–76, the President's message, 65–67, and the treaty, 96–97.

[6] See full text of protest in *Hawaii's Story by Hawaii's Queen, Liliuokalani*, 354–356.

[7] Iichiro Tokutomi, *Japanese-American Relations* (trans. by Sukeshige Yanagiwara), 60.

[8] Henry Cabot Lodge (ed.), *Selections from the Correpondence of Theodore Roosevelt and Henry Cabot Lodge*, I, 277.

[9] New York *Tribune*, December 12, 1897.

[10] February 13, 1897. *Spanish Diplomatic Correspondence and Documents, 1896–1900*, 24.

[11] See Calderon Carlisle, *Report* to E. Dupuy de Lôme, Spanish Minister; Elbert J. Benton, *International Law and Diplomacy of the Spanish–American War*, 41 ff., especially list on pp. 43–45.

[12] See letter from the Secretary of the Treasury, February 28, 1898, H. Doc. 326, 55 Cong., 2 Sess.; and Horace E. Flack, *Spanish-American Diplomatic Relations preceding the War of 1898*, 22 ff.

[13] *Foreign Relations, 1897*, 486.

[14] Royal Cortissoz, *The Life of Whitelaw Reid*, II, 220.

[15] The available material is in the MS. *Instructions, Spain*, and *Dispatches, Spain*, in the Department of State. The letters written by Woodford directly to the President are preserved with the more formal correspondence; some of the letters have been printed in *Foreign Relations, 1898*.

[16] Sherman to de Lôme, June 26, 1897, *Spanish Diplomatic Correspondence*, 26.

[17] *Ibid.*, 27–28.

[18] This instruction is printed in *Foreign Relations*, *1898*, 558–561.

[19] *Ibid.*, 562, 573, 576.

[20] *Spanish Diplomatic Correspondence*, 36.

[21] Gullón's note is in *Foreign Relations*, *1898*, 582–589.

[22] Woodford to Sherman, October 16, 1897, *Ibid.*, 581.

[23] *Ibid.*, 603–611.

[24] The translations of the decrees are in *Foreign Relations*, *1898*, 617–644.

[25] De Lôme to Gullón, telegram, December 8, 1898, *Spanish Diplomatic Correspondence*, 51.

[26] See reports accompanying McKinley's message of April 11, 1898, H. Doc. 406, 55 Cong., 2 Sess.

[27] *Ibid.*, January 18, 1898.

[28] *Spanish Diplomatic Correspondence*, 64–65.

[29] *Ibid.*, 66, January 19, 1898.

[30] For the complete letter and the correspondence see *Foreign Relations*, *1898*, 1007–1022, and *Spanish Diplomatic Correspondence*, 80–85.

[31] The printed correspondence, which tells much of the story, is in *Foreign Relations*, *1898*, 1024–1046.

[32] Dupuy to Minister of State, January 24, *Spanish Diplomatic Correspondence*, 68.

[33] The investigation by the American board resulted in a finding that the initial explosion was caused by something outside the hull; the Spanish investigation resulted in the finding that the explosion came first in the *Maine's* magazines. When, thirteen years later, the hulk was raised from the slime of Havana harbour, the disposition of the various units seemed to bear out the first American report, but some, including experts like Admiral Melville, were never convinced that an outside mine was responsible. See Sen. Rept. 885,

55 Cong., 2 Sess.; Sen. Doc. 207, 55 Cong., 2 Sess.; H. Doc. 310, 62 Cong., 2 Sess.; H. Doc. 480, 63 Cong., 2 Sess.

[34] March 3, 1898, printed in *Foreign Relations, 1898*, 680–681.

[35] Woodford to President, March 17, 1898, *Foreign Relations, 1898*, 685–688.

[36] *Ibid.*, 692.

[37] The memorandum and telegraphed summary are in *Foreign Relations, 1898*, 702–703.

[38] March 24, 1898, *Spanish Diplomatic Correspondence*, 95.

[39] *Foreign Relations, 1898*, 704.

[40] The message and accompanying documents were in H. Docs. 405 and 406, 55 Cong., 2 Sess.

[41] See, for example, the report of his conversation with the Russian ambassador, *Foreign Relations, 1898*, 573–576.

[42] A considerable portion of the information on the question of possible European intervention is to be found in *Die Grosse Politik der Europäischen Kabinette, 1871–1914*, XV, ch. xcvii, xcviii. Some material is in *Spanish Diplomatic Correspondence and Documents*, and a little in *Foreign Relations, 1898*. The manuscript archives of the Department of State add other material.

[43] For a discussion of this point see *Spanish Diplomatic Correspondence*, 109 ff.; *Die Grosse Politik*, XV, 10 ff. This point, as well as the question of German interest in the whole matter, is considered in L. B. Shippee, "Germany and the Spanish-American War," *Am. Hist. Rev.*, XXX, 754–777.

[44] Telegram, Hay to Day, April 6, 1898, Department of State, *Dispatches, Great Britain*, CXCI.

[45] George W. Smalley in *The Times*, weekly edition, February 14, 1902.

[46] The details of this controversy, which had to do with the international situation in 1902, may be found in contemporary newspapers. Summaries are in *Die Grosse Politik*,

XV, 24; F. Charmes, "*Chronique de la Quinzaine*," *Revue des deux mondes*, CLXX, 476–478; and G. W. Smalley, *Anglo-American Memories*, II, 178–185.

[47] See letter written to the President by Whitelaw Reid, April 19, 1898, in Cortissoz, *Life of Whitelaw Reid*, II, 221–223.

[48] See sketches of Marcy and Cass in this series in regard to the non-adherence of the United States to the Declaration of Paris of 1856.

[49] Élie Lebraud, *La Guerre hispano-américaine et le droit des gens*, 128 ff.

[50] The correspondence is given in *A Treaty of Peace between the United States and Spain* (Sen. Doc. 62, part 1, 55 Cong., 3 Sess.), I, 285–318.

[51] B. von Bülow to Emperor Wilhelm II, May 14, 1898, *Die Grosse Politik*, XV, 33–38.

[52] *Ibid.*, 54–59.

[53] Hay to Day, July 28, 1898, telegram, Department of State, *Dispatches, Great Britain*, CXCIII.

[54] *Die Grosse Politik, loc. cit.;* Shippee, "Germany and the Spanish-American War," *Am. Hist. Rev.*, XXX, 765 ff.

[55] Dewey has given his account of the situation in his *Autobiography*, ch. xvii, and von Diederichs, in reply, his version in "*Darstellung der Vorgänge vor Manila von Mai bis August, 1898*," in *Marine Rundschau*, March 1914, which appears in translation in the *Journal of the Royal Service Institution*, LIX, 421–446. Jeannette Keim compares the two accounts in *Forty Years of German-American Political Relations*, 220–231.

[56] Printed in *Treaty of Peace between the United States and Spain*, I, 374–375. Following this is a mass of material which the President submitted to the Senate with the treaty and which undoubtedly influenced him and his advisers.

[57] The next day Hay telegraphed that this person was the Secretary of State for Colonies. The information about these

overtures is in Department of State, *Dispatches, Great Britain*, CXCII (May 9, 1898).

[58] The correspondence leading to the protocol and the protocol itself are in *Treaty of Peace between the United States and Spain*, I, 272–284.

APPENDIX

TO SKETCH OF HAY

BIBLIOGRAPHICAL NOTE

Manuscript Sources

There is a large amount of unpublished material available for the life of John Hay in Washington. I have used particularly the unpublished Hay Papers that are in the possession of his daughter, Mrs. J. W. Wadsworth, Jr., who has graciously permitted the free use of these papers. From the Roosevelt Papers now deposited in the Library of Congress, Mrs. Roosevelt has kindly allowed copies to be made of letters exchanged between President Roosevelt and Secretary Hay. The records of the Department of State have also been searched and the author wishes to express his thanks, particularly for the uniform way in which the authorities of the department have co-operated in the interests of historical truth. The writer is also much indebted to the authorities of the Library of Congress and of the Carnegie Endowment for International Peace.

Books

Henry Adams's *The Education of Henry Adams* (Boston, 1918) is a fascinating, though at times inaccurate book by one of Hay's closest friends. J. B. Bishop's *Theodore Roosevelt and his Time* (2 volumes, N. Y., 1920) is the standard biography so far, well done to the extent that it goes, but decidedly uncritical. The time has almost come for an authoritative and unprejudiced biography of President Roosevelt. Philippe Bunau-Varilla's *Panama* (Paris, 1913) is a lively record of the author's part in the construction of the Panama

Canal. The closing chapters, which deal with the revolution at Panama, are somewhat verbose, but are fairly accurate. Tyler Dennett's *Roosevelt and the Russo-Japanese War* (N. Y., 1925) is an interesting and admirable account written in a laudatory and at times journalistic style. The documents published are especially valuable. My own *Adventures in American Diplomacy, 1896–1906* (N. Y., 1928), is based on unpublished material. *Foreign Relations of the United States, 1897–1905* (Wash. 1861–), is the standard and invaluable series, from which, however, some of the most important documents have been omitted. John Hay, *Addresses of John Hay* (N. Y., 1907) unfortunately does not contain many of Hay's earlier and best speeches. *Letters and Extracts from the Diary of John Hay* (3 volumes, Wash., 1908, printed but not published) is a useful collection of source material, which nevertheless omits much that is essential. H. C. Lodge, *Selections from the Correspondence of Theodore Roosevelt and Henry Cabot Lodge, 1884–1918* (2 volumes, N. Y., 1925), contains a chronological collection of letters of rare interest. There are a few unindicated suppressions in the body of certain letters. Martin, *Life of Joseph Hodges Choate* (2 volumes, N. Y., 1920) is a sober and somewhat limited biography, which does not deal with diplomacy to any extent. Elsie Porter Mende, *An American Soldier and Diplomat, Horace Porter* (N. Y., 1927) is a charming biography by General Porter's daughter, who was assisted by Henry Greenleaf Pearson. It is at times somewhat uncritical, but is based on General Porter's unpublished letters and diaries, on personal recollections, and, for the latter part of General Porter's active life, on documents from the Department of State. W. R. Thayer, *Life and Letters of John Hay* (2 volumes, Boston, 1915) presents a personal biography which does not pretend to be a political history. It is of value, but is marred at times by inaccuracies and by the author's personal prejudices.

FOOTNOTES

[1] For the earlier life of Hay the *Letters of John Hay and Extracts from his Diary*, Vols. I and II (printed, but not published), and Thayer, *The Life and Letters of John Hay*, have been useful.

[2] Thayer, II, 408.

[3] *Ibid.*, II, 408–409.

[4] Roosevelt to Hay, March 3, 1905, Hay Papers.

[5] McKinley to Hay, July 27, 1897, *Ibid.*

[6] Hay to Henry White, October 16, 1897, *Letters and Diary*, III, 99.

[7] Hay to Lodge, May 25, 1898, Thayer, II, 168.

[8] Sherman to White, March 16, 1898, telegram, Department of State, *Instructions, London*, XXXII, 683.

[9] Hay to Lodge, July 27, 1898, Hay Papers.

[10] *Letters and Diary*, III, 136, 141–143.

[11] Hay to Henry White, August 11, 1899, Hay Papers.

[12] Denby to Sherman, January 31, 1898, Department of State, *Dispatches, China*, CIII, No. 2858.

[13] Hay to Sherman, March 25, 1898, Department of State, *Dispatches, Great Britain*, CXCI, No. 325.

[14] Beresford to Hay, November 29, 1898, Hay Papers.

[15] Memorandum enclosed in letter of Rockhill to Hay, New York, August 28, 1899, Hay Papers.

[16] *Foreign Relations of the United States, 1899*, 131.

[17] Choate to Hay, October 21, 1899, Department of State, *Dispatches, Great Britain*, CXCVIII, enclosure to No. 181.

[18] Cassini to Hay, December 30, 1899, Hay Papers.

[19] The letters quoted in this paragraph are all to be found in the Hay Papers.

[20] Choate to Hay (private and confidential), June 20, 1900, Hay Papers.

[21] Hay to Buck, June 28, 1900, telegram, Department of State, *Instructions, Japan*, IV.

[22] *Letters and Diary*, III, 181.

[23] Root to Hay, September 2, 1900, Hay Papers.

[24] Adee to Hay, September 18, 1900, Hay Papers.

[25] Rockhill to Hay, February 1, 1902, Hay Papers.

[26] Hay to Roosevelt, May 1, 1902, Roosevelt Papers.

[27] Stewart to Hay, February 6, 1900, Hay Papers.

[28] Hay to Gilder, April 24, 1900, *Letters and Diary*, III, 177.

[29] Hay to Choate (private and personal), December 21, 1900, Hay Papers.

[30] Hay to Choate, December 22, 1900 and telegram, p. 528; Hay to Choate, December 29, 1900; Department of State, *Instructions, Great Britain*, XXXIII, No. 518.

[31] Hay to Roosevelt, October 24, 1901, Roosevelt Papers.

[32] Roosevelt to Hay, July 1, 1902, Hay Papers.

[33] Hay to Roosevelt, August 16, 1903, Roosevelt Papers.

[34] Hay to Roosevelt, September 13, 1903, Roosevelt Papers.

[35] J. B. Bishop, *Theodore Roosevelt and his Time*, I, 278.

[36] Duque to Hay, September 21, 1903, Hay Papers.

[37] Bishop, *op. cit.*, I, 295–296.

[38] Hill to Choate, June 28, 1902, telegram, Department of State, *Instructions, Great Britain*, XXXIV, 198.

[39] Choate to Hay (private and confidential), October 20, 1903, Hay Papers.

[40] White to Hay, December 15, 1902, telegram, Department of State, *Dispatches, Great Britain*, CCVI.

[41] Griscom to Hay, June 25, 1900, Department of State, *Turkey*, LIX.

[42] Hay to Adee, September 10 [1900], Hay Papers.

[43] Roosevelt to Hay, September 11, 1903, Hay Papers.

[44] Hay to Roosevelt, July 22, 1904, Roosevelt Papers.

[45] Buck to Hay, August 27, 1902, Hay Papers.

[46] Hay to White, May 22, 1903, *Letters and Diary*, III, 271.

[47] Griscom to Hay, January 5, 1904, telegram, Department of State, *Dispatches, Japan*, LXXVIII.

[48] Allen to Hay, May 19, 1904, telegram, Department of State, *Dispatches, Korea*, XXI.

APPENDIX

TO SKETCH OF ROOT

BIBLIOGRAPHICAL NOTE

There is as yet no biography of Elihu Root. The facts given in this volume in regard to Mr. Root's early life have been learned from the author's contact with him.

The sources for the diplomatic career of Secretary Root are voluminous in the extreme, and no attempt can be made to enumerate them all here. Some hints for general guidance will be given.

There is a vast mass of public documents bearing upon the foreign affairs of the United States, which can be traced in the official index to public documents. That portion which consists of diplomatic correspondence is conveniently published together in the standard official *Foreign Relations of the United States*, issued from year to year by the Department of State through the Government Printing Office in Washington. The archives of the Department of State are not open for historical investigation for so late a date as the period of Elihu Root's incumbency, but it is proper to state that the author of this sketch and of the following one of Robert Bacon served as solicitor for the Department of State. He was therefore in constant contact with the Secretaries of State and familiar with the more important official papers of the time. The private papers of Mr. Root have not yet been made available for historical perusal, or even segregated. It is to be hoped earnestly that they will be deposited, at a proper time, in the Manuscripts Division of the Library of Congress, where so many of the private papers of national statesmen have been preserved for the instruction of posterity. The author was permitted to examine the Roosevelt

Papers, now deposited, under restrictions, in the Manuscripts Division of the Library of Congress.

The official German publication of the diplomatic correspondence of the Imperial Government lays bare for us that interesting source for the study of international relations and is illuminating for details of American diplomacy during the period: *Die Grosse Politik der Europäischen Kabinette, 1871–1914* (39 volumes, Berlin, 1922–1926). The corresponding English publication, now in the course of preparation, has not yet reached print for the years covered by these sketches of Secretaries Root and Bacon. The reports of British, French, and other Governments, as prepared by their official presses, have resulted in a great accumulation of published documentary matter, always under official censorship. The more significant of this has been printed in the *American Journal of International Law*, after 1907, when the publication began.

There is a large amount of secondary and monographic material, constantly increasing in volume. In addition to the titles cited in the footnotes, it is desirable to mention particularly some of these. Tyler Dennett, *Roosevelt and the Russo-Japanese War; a Critical Study of American Policy in Eastern Asia in 1902–1905* (N. Y., 1925), has the value of being based primarily upon the private papers of Theodore Roosevelt, as well as other source material then in print, which did not at that time include the *Grosse Politik*. Charles B. Elliott, *The Philippines to the End of Commission Government* (Indianapolis, 1917), is the best treatise on the political organization under the American regime, of the islands. Charles E. Chapman, *History of the Cuban Republic: A Study in Hispanic American Politics* (N. Y., 1927), is the latest treatise on the subject. Gaillard Hunt, *The Department of State of the United States, its History and Functions* (New Haven, 1914), is the standard work on the subject. The following books by the author deal particularly with the international phases

of Secretary Root's career: *The Declaration of London . . . With an Introduction by Elihu Root* (N. Y., 1919) contains Mr. Root's instructions to the American delegation and its report; *Elihu Root's Services to International Law* (N. Y., 1925, also published as No. 207 of *International Conciliation* pamphlets); *The Hague Peace Conferences of 1899 and 1907* (Balto., 1909); *The Project of a Permanent Court of International Justice, and Resolutions of the Advisory Committee of Jurists. Report and Commentary* (Wash., 1920); *The Recommendations of Habana concerning International Organization, adopted by the American Institute of International Law at Habana, January 23, 1917* (N. Y., 1917) contains a commentary on the Platt Amendment.

The publications of Elihu Root's writings and speeches are formidable in amount. The more important include: *Speeches incident to the Visit of Secretary Root to South America in 1906* (Wash., G.P.O., 1906); "The Real Questions under the Japanese Treaty and the San Francisco School Board Resolution," *Am. Journ. Intern. Law*, I, 273–286; *Speech of Elihu Root as Chairman of Republican State Convention at Saratoga, September 14, 1908* (Utica, 1908); *Argument of the Honorable Elihu Root on Behalf of the United States Before the North Atlantic Fisheries Arbitration Tribunal at The Hague, 1910* (Boston, 1912); *Experiments in Government and the Essentials of the Constitution* (Princeton, 1913); *Panama Canal Tolls—the Obligations of the United States* (Boston, 1913) in World Peace Foundation pamphlet series, III, No. 3; *Speech, April 21, 1914, on the Mexican Resolution* (Wash., 1914); *Speech, May 21, 1914, on Panama Canal Tolls* (Wash., 1914); *Speeches of Hon. Elihu Root on the Ship Purchase Bill, January 4, 25, February 9, 1915* (Wash., G.P.O., 1915); *Addresses on Government and Citizenship* (Cambridge, 1916), which includes the Nobel Peace Award address; *The Military and Colonial Policy of the United States* (Cambridge, 1916); *The Citizen's Part in Government* (New Haven, 1916); *Addresses*

on International Subjects (Cambridge, 1916); *Latin America and the United States* (Cambridge, 1917); *Miscellaneous Addresses* (Cambridge, 1917); *The United States and the War; the Mission to Russia, Political Addresses* (Cambridge, 1918); *Letters of the Honorable Elihu Root relative to the League of Nations* (Wash., G.P.O., 1919); "The Constitution of an International Court of Justice," *Am. Journ. Internat. Law*, XV, 1–12; *Men and Policies* (Cambridge, 1924); *American Ideals during the Past Half Century* (N. Y., 1925), also printed in *International Conciliation* pamphlet No. 210; "America and Europe, an Address in accepting the Award of the Woodrow Wilson Foundation," *Foreign Affairs* V, No. 2, special supplement.

The speeches of Secretary Root, and of Elihu Root political leader and statesman, awaiting his definitive biographer, are scattered through the many newspapers and periodicals of the day. They were called forth by nearly every international question of importance, as well as by the principal domestic issues of the day; for example, Mr. Root's part in the Republican national conventions. It has been impossible in a work of this limited scope to touch on the significance of Elihu Root in the domestic politics of the nation.

FOOTNOTES

[1] *The Military and Colonial Policy of the United States. Addresses and Reports by Elihu Root*, collected and edited by Robert Bacon and James Brown Scott (Harvard University Press, 1916), xiv.

[2] *Autobiography of Andrew Dickson White* (N. Y., 1914), I, 10.

[3] Treaty of Peace between the United States and Spain, concluded at Paris, December 10, 1898:

ARTICLE I

"Spain relinquishes all claim of sovereignty over and title to Cuba.

"And as the island is, upon its evacuation by Spain, to be occupied by the United States, the United States will, so long as such occupation shall last, assume and discharge the obligations that may under international law result from the fact of its occupation, for the protection of life and property."

ARTICLE XVI

"It is understood that any obligations assumed in this treaty by the United States with respect to Cuba are limited to the time of its occupancy thereof; but it will upon the termination of such occupancy, advise any Government established in the island to assume the same obligations."

[4] "An Act temporarily to provide revenues and a civil government for Porto Rico, and for other purposes," dated April 12, 1900. *Statutes at Large* (Wash., 1901), XXXI, ch. 191, section 7, pp. 77–86.

[5] "Within the meaning of the act of June 6, 1900, Cuba is foreign territory. It cannot be regarded, in any constitutional, legal or international sense, a part of the territory of the United States." Mr. Justice Harlan delivering the opinion of the court in Neely *v.* Henkel (No. 1), 180 *U. S. Reports* (1901), 109, 119.

"The Isle of Pines continues at least *de facto* under the jurisdiction of the government of the Republic of Cuba, and that settles the question before us, because as the United States have never taken possession of the Isle of Pines as having been ceded by the treaty of peace, and as it has been and is being governed by the Republic of Cuba, it has remained 'foreign country.' . . ." Mr. Chief Justice Fuller

delivering the opinion of the court in Pearcy *v.* Stranahan, *205 U. S. Reports* (1907), 257, 272.

[6] Throughout the four years of occupation the United States sought to prepare Cuba for self-government, and Secretary Root had given much time and thought to the conditions under which the withdrawal should take place. These conditions he set forth, February 9,1901, in instructions to Major-General Leonard Wood, then Military Governor of Cuba. They were five in number. Approved by President McKinley, and at the request of the President and Secretary Root, they were, with unimportant changes of phraseology, introduced by Senator Platt as an amendment to the Army Appropriation Bill of March 2, 1901. They were adopted, and were popularly known as the "Platt Amendment." Articles I, II, III, IV, and V of Mr. Root's instructions became respectively Articles I, II, III, IV, and VII of the amendment. Three new articles were added: an article concerning sanitation, at the suggestion of General Wood, became Article V; Article VI, concerning the Isle of Pines, and Article VIII of the amendment, requiring further assurance by treaty, were inserted by the Senate Committee on Cuban Relations, of which Senator Platt was chairman.

According to Article III of this amendment, "the government of Cuba consents that the United States may exercise the right to intervene for the preservation of Cuban independence, the maintenance of a government adequate for the protection of life, property, and individual liberty, and for discharging the obligations with respect to Cuba imposed by the Treaty of Paris on the United States, now to be assumed and undertaken by the government of Cuba."

[7] "You will instruct the commission to proceed to the city of Manila, where they will make their principal office. . . . They should in general be enjoined . . . to devote their attention in the first instance to the establishment of municipal governments, in which the natives of the islands, both in

the cities and in the rural communities, shall be afforded the opportunity to manage their own local affairs to the fullest extent to which they are capable, and subject to the least degree of supervision and control which a careful study of their capacities and observation of the workings of native control show to be consistent with the maintenance of law, order, and loyalty.

"The next subject in order of importance should be the organization of government in the larger administrative divisions. . . . Whenever the commission is of the opinion that the condition of affairs in the islands is such that the central administration may safely be transferred from military to civil control, they will report that conclusion to you, with their recommendations as to the form of central government to be established for the purpose of taking over the control.

"Beginning with the 1st day of September, 1900, the authority to exercise, subject to my approval, through the Secretary of War, that part of the power of government in the Philippine Islands which is of a legislative nature is to be transferred from the military governor of the islands to this commission. . . .

"In the distribution of powers among the governments organized by the commission the presumption is always to be in favor of the smaller sub-division, so that all the powers which can properly be exercised by the municipal government shall be vested in that government, and all the powers of a more general character which can be exercised by the departmental government shall be vested in that government, and so that in the governmental system which is the result of the process the central government of the islands, following the example of the distribution of the powers between the States and the National Government of the United States, shall have no direct administration except of matters of purely general concern, and shall have only such supervision and control over local governments as may be

necessary to secure and enforce faithful and efficient administration by local officers.

". . . In all cases the municipal officers, who administer the local affairs of the people, are to be selected by the people, and . . . wherever officers of more extended jurisdiction are to be selected in any way, natives of the islands are to be preferred, and if they can be found competent and willing to perform the duties, they are to receive the offices in preference to any others.

". . . The commission should bear in mind that the government which they are establishing is designed, not for our satisfaction or for the expression of our theoretical views, but for the happiness, peace, and prosperity of the people of the Philippine Islands, and the measures adopted should be made to conform to their customs, their habits, and even their prejudices, to the fullest extent consistent with the accomplishment of the indispensable requisites of just and effective government.

"At the same time the commission should bear in mind, and the people of the islands should be made plainly to understand, that there are certain great principles of government which have been made the basis of our governmental system which we deem essential to the rule of law and the maintenance of individual freedom, and of which they have, unfortunately, been denied the experience possessed by us; that there are also certain practical rules of government which we have found to be essential to the preservation of these great principles of liberty and law, and that these principles and these rules of government must be established and maintained in their islands for the sake of their liberty and happiness, however much they may conflict with the customs or laws of procedure with which they are familiar." "Instructions of President McKinley to Honorable William H. Taft, President Board of Commissioners to the Philippine Islands, April 7, 1900," *Report of the Secretary of War, 1900*, 72.

[8] For Mr. Root's mature views on the question of the Philippines and the proper attitude of the United States towards them and their peoples, see his prefatory note, dated August 8, 1916, to the first volume of Charles Burke Elliott's two-volume work: *The Philippines—to the End of the Military Régime. America Overseas* and *The Philippines—to the End of the Commission Government. A Study in Tropical Democracy* (Indianapolis, 1917).

[9] P. 53. For the convention, correspondence, and award of the Alaska boundary controversy between Great Britain and the United States, see *Foreign Relations, 1903*, 488–545; for the delimitation of the Alaskan boundary, *Ibid., 1904*, 324–326; for the acceptance of the award by exchange of notes, *Ibid., 1905*, 478–480; for the convention between the United States and Great Britain of April 21, 1906 for marking the boundary line, *Ibid., 1906*, 801–803; for a brief technical statement of the boundary difficulty and its adjustment, see Henry Gannett, "Boundaries of the United States and of the Several States and Territories," H. Doc. 678, 58 Cong., 2 Sess. (3rd edition, Wash., 1904), 25–28; for an interesting narrative of a popular kind, John T. Faris, *The Romance of the Boundaries* (N. Y., 1926), 133–150.

[10] *Miscellaneous Addresses by Elihu Root*, collected and edited by Robert Bacon and James Brown Scott (Cambridge, 1917), 154.

[11] "An Act making appropriation for the support of the Army for the fiscal year ending June thirtieth, nineteen hundred and three," *Statutes at Large*, Vol. XXXII, Part I, 507, 512.

[12] "Military Education," *The Military and Colonial Policy of the United States. Addresses and Reports by Elihu Root* (1916), 388.

[13] *General Orders and Circulars, Adjutant General's Office, 1901* (Wash., 1902).

[14] *Foreign Relations, 1900*, 155 *et seq.*

[15] On November 3, 1905, shortly after Mr. Root assumed the Secretaryship of State, and in his presence, President Roosevelt said to Freiherr Speck von Sternburg, then German ambassador to the United States: "Root's political views and mine are in complete accord. . . . I beg you to give Root your fullest confidence and to speak with him as if you were talking with me." *Die Grosse Politik der Europäischen Kabinette, 1871–1914*, XXI, Part I, 9.

[16] Malloy, I, 1220–1226; for the *proces-verbal*, etc., of this conference, see *Foreign Relations, 1880*, 893–920.

[17] Malloy, II, 2157–2183.

[18] For statements in *Die Grosse Politik der Europäischen Kabinette, 1871–1914*, concerning Ambassador White's attitude, see Vol. XXI, Part I, 93, 99, 102, 113, 114, and especially 121, 135, 148–149, 177, 204, 258, 328, 330, 345–347.

[19] For the antecedents of the Algeciras conference see *Foreign Relations, 1905*, 668–684; for the conference at Algeciras and the attitude of the United States see *Ibid., 1906*, Part II, 1470–1513.

The correspondence of Freiherr Speck von Sternburg, German ambassador to the United States, the views of the German Government, and the attitude of the United States at the conference, as repeatedly stated by President Roosevelt and Secretary of State Root, are to be found in *Die Grosse Politik der Europäischen Kabinette, 1871–1914*, Vol. XXI (Berlin, 1925).

The role of the United States was that of a neutral power with small interests in Morocco, but with large interests in world peace. It was friendly to the powers materially interested, with a desire to suggest compromises when not inconsistent with the traditional policy of the United States, and consistent with the attitudes of the powers chiefly and materially concerned. See, especially, *Ibid.*, 9–10, 147–148, 259–261, 305–306. Mr. Norman Dwight Harris has stated in a simple and single phrase that the United States "played the

part of a neutral umpire desiring to see fair treatment for the claims of both litigants," at the Algeciras conference—the litigants being France on the one hand, and Germany on the other. *Europe and Africa* (Cambridge, 1927), 290.

[20] The reservation reads as follows: "The Government of the United States of America, having no political interest in Morocco and no desire or purpose having animated it to take part in this conference other than to secure for all peoples the widest equality of trade and privilege with Morocco and to facilitate the institution of reforms in that country tending to insure complete cordiality of intercourse without and stability of administration within for the common good, declares that, in acquiescing in the regulations and declarations of the conference, in becoming a signatory to the General Act of Algeciras and to the Additional Protocol, subject to ratification according to constitutional procedure, and in accepting the application of those regulations and declarations to American citizens and interests in Morocco, it does so without assuming obligation or responsibility for the enforcement thereof." Malloy, II, 2182–2183.

[21] *Ibid.*, 2183.

[22] H. Doc. 565, 59 Cong., 1 Sess. (Wash., 1906).

[23] P. 150 (Garden City, N. Y., 1927).

[24] "The Origin of the Congo Free State, considered from the Standpoint of International Law," by Jesse S. Reeves, *American Journal of International Law*, III, 99, 103.

[25] The text of this act is printed in the *Supplement to the American Journal of International Law*, III, 7.

[26] For the text of this treaty see *Ibid.*, 29.

[27] *Foreign Relations, 1907*, 799.

[28] *Ibid.*, 806.

[29] The article to which Secretary Root referred is, in part, as follows: "To diminish intestine wars between tribes by means of arbitration; to initiate them in agricultural labor and in the industrial arts, so as to increase their welfare;

to raise them to civilization and bring about the extinction of barbarous customs. . . . To give aid and protection to commercial enterprise; to watch over their legality by especially controlling contracts for service with natives, and to prepare the way for the foundation of permanent centers of cultivation and of commercial settlements."

[30] The correspondence on the Congo situation is somewhat extensive. The material portions of it are given in *Foreign Relations, 1905*, 87–93; *Ibid., 1906*, Part I, 88–105; *Ibid., 1907*, Part II, 791–829; *Ibid., 1908*, 537–593; *Ibid., 1909*, 400–403. With this last document Secretary Root's communications on the Congo ceased. It is an elaborate statement of the attitude of the United States, set forth in a note to the Belgian minister at Washington, January 11, 1909, but a few days before Secretary Root's retirement.

On the general subject of the Congo see Norman Dwight Harris, *Europe and Africa* (Cambridge, 1927), especially chapter ii, "The Founding of the Congo Independent State," 22–48, and chapter iii, "Transition to the Belgian Congo," 49–68. See *British Possessions*, II; *The Congo. Peace Handbooks*, issued by the Historical Section of the Foreign Office, Vol. XVI, Nos. 96–99 (London, 1920). There is an excellent article, by that most competent of authorities, Mr. Arthur Berriedale Keith, in the *Encyclopædia Britannica* (13th edition), I, 348–349. Mr. Keith has expressed his views on a larger scale in his volume entitled *The Belgian Congo and the Berlin Act* (Oxford, 1909). See, also, a carefully written article by Jesse S. Reeves, "The Origin of the Congo Free State, considered from the Standpoint of International Law," *American Journal of International Law*, III, 99; and the documents relative thereto in the *Supplement to the American Journal of International Law*, III, 7–90.

[31] *Foreign Relations, 1905*, 828–830; *Ibid., 1906*, Part II, 1625–1634.

[32] The text of this address is printed in *Latin America*

and the United States, addresses by Elihu Root, collected and edited by Robert Bacon and James Brown Scott (1917), 6–11.

[33] For an account of Mr. Root's visit to South America see *Foreign Relations, 1906.*

[34] *Selections from the Correspondence of Theodore Roosevelt and Henry Cabot Lodge, 1884–1918* (N. Y., 1925), II, 241.

[35] Session of January 15, 1902. See *Second Pan American Conference—Minutes and Documents* (Mexico, 1901), 437–450.

[36] *Foreign Relations, 1905*, 828–829; *Ibid., 1906*, Part II, 1625 *et seq.* Although Panama at first declined the invitation, it later accepted and was represented at the conference.

[37] See "Instructions to the Delegates of the United States to the Second International Peace Conference," *The Second International Peace Conference held at The Hague from June 15 to October 18, 1907*, Sen. Doc. 444, 60 Cong., 1 Sess., pp. 5–23; "Report of the American Delegation," *Ibid.*, 24–61; letter of Secretary Root to President Roosevelt, dated February 26, 1908, transmitting conventions, *Ibid.*, 61–62; President Roosevelt's message to the Senate, *Ibid.*, 61; conventions, final act containing resolutions, draft convention relative to creation of a judicial arbitration court, and signatures to the conventions, *Ibid.*, 64–209.

[38] "The question about each international conference is not merely what it has accomplished, but also what it has begun, and what it has moved forward. Not only the conventions signed and ratified, but the steps taken toward conclusions which may not reach practical and effective form for many years to come, are of value. Some of the resolutions adopted by the last conference do not seem to amount to very much by themselves, but each one marks on some line of progress the farthest point to which the world is yet willing to go. They are like cable ends buoyed in mid-ocean, to be picked up hereafter by some other steamer, spliced, and continued to shore. The greater the reform proposed, the longer must be the process required to bring many

nations differing widely in their laws, customs, traditions, interests, prejudices, into agreement. Each necessary step in the process is as useful as the final act which crowns the work and is received with public celebration." Elihu Root in the Prefatory Note to the *Texts of the Peace Conferences at The Hague, 1899 and 1907*, edited by James Brown Scott (Boston, 1908), iv.

[39] "If any European power proposes consideration of the subject [of the limitation of armament], you will vote in favor of consideration and do everything you properly can to promote it. If, on the other hand, no European power proposes consideration of the subject, and no new and affirmative evidence is presented to satisfy you that a useful purpose would be subserved by your making such a proposal, you may assume that the limitations above stated by way of guidance to your action preclude you from asking the Conference to consider the subject." Instructions to the American Delegates, Sen. Doc. 444, 60 Cong., 1 Sess., pp. 9–10.

[40] "The PRESIDENT [Mr. Nelidow, of Russia]: 'The British proposition that you have just heard, gentlemen, is supported by the United States of America, whose first delegate has addressed me the following letter:

> "'Mr. PRESIDENT: In the course of the negotiations which preceded the present Conference the Government of the United States considered it to be its duty to reserve the right to bring forward here the important subject of the limitation of armaments, in the hope that they might advance in some small degree the lofty conception which inspired the Emperor of Russia in his first appeal.
>
> "'While regretting that more progress in the direction indicated by His Imperial Majesty cannot be made at this moment, we are happy to think that there is no intention on the part of the nations to abandon his endeavors, and we request to be allowed to express our sympathy for

the views expressed by his Excellency the first delegate of Great Britain, and to support the proposal that he has just made.'"

Joseph H. Choate, "*The Proceedings of the Hague Peace Conferences.* Translation of the Official Texts, prepared in the Division of International Law of the Carnegie Endowment for International Peace, *The Conference of 1907*," (N. Y., 1920), I, 90.

[41] *Foreign Relations, 1907*, Part II, 1104–1107.

[42] *Foreign Relations, 1909*, 294–336; see, also, *The Declaration of London, February 26, 1909*, a collection of official papers and documents relating to the international naval conference held in London, December 1908–February 1909, with an introduction by Elihu Root, edited by James Brown Scott (N. Y., 1919).

[43] April 24, 1912, *Congressional Record*, 62 Cong., 2 Sess., Vol. XLVIII, Part 6, p. 5259.

[44] *Proceedings of the Hague Peace Conferences*, II, 1045–1050.

[45] Mr. Root was one of the ten jurists invited, on February 13, 1920, by the Council of the League of Nations to meet at The Hague during the course of the summer, in order to formulate plans for the establishment of a permanent court of international justice, provided for in Article XIV of the Covenant of the League. They met, June 16–July 24, 1920, and devised a project that, with some amendments and modifications by the Council and Assembly, was adopted and now forms the Statute of the Permanent Court of International Justice. For the important part taken by Mr. Root in the sessions of this committee of jurists, especially in submitting an acceptable method of electing the judges of the court, see *The Project of a Permanent Court of International Justice and Resolutions of the Advisory Committee of Jurists*, report and commentary by James Brown Scott (1920).

[46] These treaties were concluded with the Argentine Republic, Austria, Bolivia, Brazil, Chile, China, Costa Rica, Denmark, Ecuador, France, Great Britain, Haiti, Italy, Japan, Mexico, the Netherlands, Norway, Paraguay, Peru, Portugal, Salvador, Spain, Sweden, Switzerland, and Uruguay. Ratifications have not been exchanged with the Argentine Republic, Bolivia, or Chile.

[47] "The Governments of the United States and Great Britain hereby declare that neither the one nor the other will ever obtain or maintain for itself any exclusive control over the said ship-canal . . . nor will the United States or Great Britain take advantage of any intimacy, or use any alliance, connection, or influence that either may possess, with any State or Government through whose territory the said canal may pass, for the purpose of acquiring or holding, directly or indirectly, for the citizens or subjects of the one any rights or advantages in regard to commerce or navigation through the said canal which shall not be offered on the same terms to the citizens or subjects of the other" (Article I).

"The contracting parties will use whatever influence they respectively exercise with any State, States, or Governments possessing, or claiming to possess, any jurisdiction or right over the territory which the said canal shall traverse, or which shall be near the waters applicable thereto, in order to induce such States or Governments to facilitate the construction of the said canal by every means in their power; and, furthermore, the United States and Great Britain agree to use their good offices, wherever or however it may be most expedient, in order to procure the establishment of two free ports, one at each end of the said canal" (Article II).

". . . And the contracting parties likewise agree that each shall enter into treaty stipulations with such of the Central American States as they may deem advisable for the purpose of more effectually carrying out the great design of this convention, namely, that of constructing and maintaining

the said canal as a ship communication between the two oceans, for the benefit of mankind, on equal terms to all, and of protecting the same . . ." (Article VI).

[48] *Diplomatic History of the Panama Canal*, Sen. Doc. 474, 63 Cong., 2 Sess., p. 287.

[49] *Addresses on International Subjects*, 175.

[50] *Foreign Relations, 1909*, 223–233.

[51] *Foreign Relations, 1910*, 361 *et seq.*

[52] *Works of John Adams*, Charles Francis Adams, ed. (1856), X, 404.

[53] Lord Bathurst to Adams, October 30, 1815. *American State Papers*, Vol. IV (1834), 354.

[54] The text of the treaty is itself the shortest statement of the territorial waters in which the American fishermen were to ply their calling: "on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands, on the western and northern coast of Newfoundland, from the said Cape Ray to the Quirpon Islands on the shores of the Magdalen Islands, and also on the coasts, bays, harbours, and creeks from Mount Joly on the southern coast of Labrador, to and through the Streights of Belleisle and thence northwardly indefinitely along the coast, without prejudice however, to any of the exclusive rights of the Hudson Bay Company" (Article I).

[55] *Foreign Relations, 1906*, Part I, 690.

[56] See *Argument of the Honorable Elihu Root on behalf of the United States before the North Atlantic Coast Fisheries Arbitration Tribunal at The Hague, 1910*, edited by James Brown Scott (1912), Introduction, lii, and Argument of Mr. Root, 86 *et seq.* The proceedings of the whole arbitration are published in nine volumes as a Senate document.

[57] Malloy, III, 2632.

[58] "Rules and Regulations governing the Department of State," Sen. Doc. 359, 59 Cong., 2 Sess., p. 9.

[59] *Ibid.*, 10.

[60] *The Statutes at Large of the United States*, XLIII, Part I, 140.

[61] *Report of the Secretary of War for 1900*, 11–22, 61–71.

[62] Malloy, II, 2006.

[63] *Foreign Relations, 1901*, 129–130; *Ibid., 1907*, 174–176; *Ibid., 1908*, 64–75.

"The bond from China to the United States is in the sum of $24,440,778.81. The bond is dated December 15, 1906, but the interest thereon begins, according to the terms of the bond, on September 7, 1901, the date of the signing of the protocol. By joint resolution of Congress of May 25, 1908, the payment to be made by China under said bond was limited to the sum of $13,655,492.69, with interest at 4 per cent and the remainder of the indemnity was remitted as an act of friendship. Of this $13,655,492.69, the further sum of $1,175,835.64, was remitted when the remaining outstanding claims of American citizens had been paid in full by China, thus making a net liquidated debt of $12,479,657.05." *Chinese Indemnity. Hearings before the Committee on Foreign Affairs. House of Representatives. 68th Congress, 1st Session on H.J. Res. 201, to provide for the remission of further payments of the annual installments of the Chinese indemnity. March 31 and April 1 and 2, 1924* (Wash., 1924), p. 1.

[64] This account, with slight modifications, is taken from the introduction to *Treaties and Agreements with and Concerning China, 1894–1919*, compiled and edited by John V. A. MacMurray, I, x–xi.

[65] Professor Westel W. Willoughby, *Foreign Rights and Interests in China* (second edition, Baltimore, 1927), Vol. II, chapter xl, "Remission of the Boxer Indemnities," 1012–1024.

[66] See President Roosevelt's letters dated June 5, 1905 and June 16, 1905 to Henry Cabot Lodge, *Selections from the Correspondence of Theodore Roosevelt and Henry Cabot Lodge, 1884–1918* (2 volumes, N. Y., 1925), II, 130, 138; Tyler Den-

nett, *Roosevelt and the Russo-Japanese War* (Garden City, 1925). The latter work also utilizes the Roosevelt Papers.

[67] *Foreign Relations, 1905*, 807–828. The diplomacy of the Peace of Portsmouth, written from unpublished private and public papers, may be found in Dennett, *op. cit.*

[68] *The Political Code of the State of California*, by James H. Deering, Walter S. Brann, and R. M. Sims (1906), Part III, Title III, ch. iii, art. x, sec. 1662, p. 348.

[69] "The Real Questions under the Japanese Treaty and the San Francisco School Board Resolution," *Proceedings of the American Society of International Law, 1907*, p. 43; Root, *Addresses on International Subjects* (1916), 7.

[70] *Foreign Relations, 1908*, 510–512.

[71] *Foreign Relations, 1906* (Part I), 857–866.

[72] See also "The Central American Peace Conference of 1907," by James Brown Scott, *American Journal of International Law*, II, 132.

[73] See *Conferencia de Paz Centroamericana, Washington, Noviembre y Diciembre de 1907, Actas y Documentos* (Wash., 1907).

[74] The text of this decision is published in the *American Journal of International Law*, III, 434.

[75] *Ibid.*, 737.

[76] *Anales de la Corte de Justicia Centroamericana* (San José, Costa Rica), I, No. 3, p. 203.

[77] *Ibid.*, III, Nos. 1 to 8, p. 58.

[78] *Ibid.*, IV, Nos. 9 to 11, p. 84.

[79] *Ibid.*, Nos. 11 to 13, p. 9.

[80] *American Journal of International Law*, XI, 181; also, *Anales*, V, Nos. 14 to 16, p. 130.

[81] *American Journal of International Law*, XI, 674; *Anales*, VI, 96.

[82] See "The Closing of the Central American Court of Justice," by James Brown Scott, *American Journal of International Law*, XII, 380.

[83] On the whole subject see Henry S. Burrage, *Maine in the Northeastern Boundary Controversy* (printed for the state, Portland, 1919); for the last part of the subject, 383–389.

[84] *Addresses on International Subjects*, by Elihu Root (1916), 207, 241.

[85] *Ibid.*, 327.

[86] "The Ship Purchase Bill," *Ibid.*, 337.

[87] For Mr. Root's remarks in the convention see his *Addresses on Government and Citizenship* (1916), 163–212, and for two addresses before the Republican Club of New York and the Economic Club of New York, advocating the adoption of the constitution as amended, see *Ibid.*, 213–244.

[88] See "America's Message to the Russian People," *Addresses by the Members of the Special Diplomatic Mission of the United States to Russia in the year 1917* (Boston, 1918).

[89] *Conference on the Limitation of Armament* (Wash., Government Printing Office, 1922). See also Mr. Root's address as president of the American Society of International Law, at its meeting of April 27, 1922, entitled, "International Law at the Washington Conference on the Limitation of Armament," *Proceedings of the American Society*, 1922, p. 1; *Men and Policies*, 452.

[90] For the texts of these addresses see *Proceedings of the American Society of International Law*, 1907–1917, 1921–1924. Those delivered from 1907–1916 are also printed in *Addresses on International Subjects* (1916), for 1917 in *Miscellaneous Addresses* (1917). During 1918, 1919, and 1920 there were no formal meetings of the society. His addresses for 1921, 1922, and 1923 are also to be found in *Men and Policies* (1926). See also "Elihu Root's Services to International Law," *Proceedings of the American Society of International Law* (1924), 2–41.

[91] July 20, 1913. *For Better Relations with our Latin American Neighbors; A Journey to South America*, by Robert Bacon (Washington, 1915), 3–4.

[92] *The Hague Court Reports. Great Britain, Spain and France versus Portugal in the Matter of the Expropriated Religious Properties in Portugal.* English translation by the Carnegie Endowment for International Peace (1921), from the official French text, published by the Bureau International de la Cour Permanente d'Arbitrage (The Hague, 1920), and entitled, *Compromis, protocoles des séances et sentences du tribunal d'arbitrage constitué en vertu du compromis signé à Lisbonne le 31 juillet 1913 entre la Grande-Bretagne, l'Espagne et la France et le Portugal.*

[93] "The League of Nations," *Men and Policies* (1926), 247–294.

[94] The committee on the award of the Nobel Peace Prize for 1912 made known its decision on December 10, 1913, in the hall of the Nobel Institute at Oslo. After speaking of Mr. Root's services to the cause of peace while he was Secretary of State of the United States, Mr. Moe, secretary of the committee, who delivered an address on this occasion, said that "Since his retirement Mr. Root has been recognized as the leader of the peace movement in the United States." See *Les Prix Nobel en 1913* (Stockholm, 1914).

The statutes of the Nobel Foundation require the laureate of the peace prize to deliver an address in person at Oslo, Norway. The outbreak of the World War prevented Mr. Root from delivering his on September 8, 1914, as planned, but it is printed in his *Addresses on International Subjects* (1916), 153.

APPENDIX

TO SKETCH OF BACON

BIBLIOGRAPHICAL NOTE

The biography of Robert Bacon, based on his papers, is the author's volume *Robert Bacon, Life and Letters*, with a foreword by Field-marshal the Right Honourable Earl Haig, and an introduction by the Honourable Elihu Root (N. Y., 1923). In general the material for the history of Secretary Bacon's diplomacy is that indicated in the bibliographical note to the sketch of Secretary Root, but see also: Robert Bacon, *For Better Relations with our Latin American Neighbors; A Journey to South America* (Wash., 1915); and Report of William Howard Taft, Secretary of War, and Robert Bacon, Assistant Secretary of State, of what was done under the instructions of the President in restoring peace in Cuba, in U.S. War Dept., *Reports of the Secretary of War, 1906*, 444–642.

FOOTNOTES

[1] *Foreign Relations, 1906*, Part I, 454 *et seq.;* Report of Secretary of War Taft and Assistant Secretary of State Bacon, relative to Cuba, *Report of the Secretary of War, 1906*, 441–539; Report of Governor Magoon, *Ibid.*, 177–184; *Ibid., 1909*, 94–99. See also the recent and documented account of the entire transaction in Charles E. Chapman's *History of the Cuban Republic: A Study in Hispanic American Politics* (N. Y., 1927), 176–225.

[2] C. E. Chapman, *op. cit.*, 204.

[3] "North American Conservation Conference," Sen. Doc. 742, 60 Cong., 2 Sess.

[4] *Foreign Relations, 1909*, 1–2.

[5] For the text of this cablegram see James Brown Scott, *Robert Bacon, Life and Letters* (N. Y., 1923), 127–128.

[6] Robert Bacon, *For Better Relations with our Latin American Neighbors; A Journey to South America* (Wash., 1915), 52.

APPENDIX

TO SKETCH OF KNOX

BIBLIOGRAPHICAL NOTE

The private papers of Philander Chase Knox are not yet available to the public. They are believed to be in the possession of his daughter, Mrs. James R. Tindle, who has placed them, or is about to do so, in the hands of an associate and intimate friend for biographical purposes. There is as yet no published biography beyond brief sketches in encyclopædias and in *Senators from Pennsylvania: Memorial Addresses delivered in the Senate and House of Representatives of the United States in Memory of Philander C. Knox, Boies Penrose, William E. Crow, late Senators from Pennsylvania* (Washington, 1924). The Taft Papers in the custody of the Library of Congress, now available to students, subject to the permission of Chief Justice Taft, are invaluable for the light they throw on the intimate relationship between Knox and Taft.

The public papers of Knox as Secretary of State belong to a period too recent for divulgation beyond those which have appeared in *Foreign Relations of the United States.* Nearly all of Knox's public addresses are available in separate prints.

A fairly good (though apparently hastily written) review of Knox's policies as Secretary of State will be found in Louis M. Sears, *History of America's Foreign Relations* (N. Y., 1927), which appeared after the present sketch was completed.

Knox's part as Attorney-General in the Northern Securities case is ably presented in Balthasar H. Meyer, *History of the Northern Securities Case* (*Bulletin of the University of*

Wisconsin, No. 142), and in James Brown Scott, *Robert Bacon, Life and Letters* (N. Y., 1923). The latter made use not only of Pyle's *James J. Hill* and Kennan's *E. H. Harriman*, but also of the briefs and testimony in the various suits and hearings.

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Henry Cabot Lodge, *The Senate and the League of Nations* (N. Y., 1925).

Reference is made in the footnotes to a number of other important sources.

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[1] Herbert A. L. Fisher, *James Bryce* (London, 1927), II, 37.

[2] *Who's Who in America, 1920–1921*, XI, 1628.

[3] *The Law of Labor and Trade*, 2, 7.

[4] Cited by James Francis Burke, in *Memorial Addresses*, 81. Roosevelt expressed his appreciation of Knox's services as Attorney-General, when accepting the latter's resignation to take his seat in the Senate, according to Joseph B. Bishop, *Theodore Roosevelt and His Time* (N. Y., 1920), I, 318.

[5] In *Memorial Addresses*, 50.

[6] *Ibid.*, 29 f.

[7] *Ibid.*, 83 f.

[8] *Ibid.*, 47.

[9] Meyer, *op. cit.;* Bishop, *op. cit.*, I, 182 f.; Scott, *op. cit.*, 86–102.

[10] James Ford Rhodes, *The McKinley and Roosevelt Administrations, 1897–1909* (N. Y., 1922), 223.

[11] 193 U.S. 255.

[12] 193 U.S. 198.

[13] In *Memorial Addresses*, 48.

[14] Bishop, *op. cit.*, I, 325.

[15] Oscar King Davis, *Released for Publication* (N. Y., 1925), 128 f. Hostile to Taft.

[16] Latané, *American Foreign Policy*, 529 f.

[17] Davis, *op. cit.*, 112–119.

[18] Abbott, *Impressions*, 139 f.; Rhodes, *op. cit.*, 271.

[19] Cited by Burke, in *Memorial Addresses*, 80.

[20] *Ibid.*, 81.

[21] James Francis Burke, *Some of the Public Services of Honorable Philander Chase Knox*, speech before the Pennsylvania delegation on December 4, 1907, 14–21; Rhodes, *op. cit.*, 324 f.

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[23] Knox to Taft, May 24, 1908, Taft MSS., Library of Congress.

[24] Knox to Taft, December 26, 1908, *Ibid.*

[25] Knox to Taft, December 29, 1908, *Ibid.*

[26] Winthrop finally "landed" as Assistant Secretary of the Navy; New York *Times*, March 6, 1909, 2.

[27] Knox to Taft, January 16, 1909, Taft MSS.

[28] Taft to Knox, February 9, 1909, *Ibid.*

[29] Knox to Taft, and Taft to Knox, February 22, 1909, *Ibid.*

[30] Davis, *op. cit.*, 186 f.

[31] Knox to Taft, November 29, 1911, *Ibid.*

[32] New York *Times*, editorial, March 6, 1909, 6.

[33] New York *Times*, March 7, 1909, 2.

[34] Henry Lane Wilson, *Diplomatic Episodes in Mexico, Belgium and Chile* (N. Y., 1927), 298.

[35] William Howard Taft, *Address before the Americus Club*, Pittsburgh, Pa., May 2, 1910, 5; P. C. Knox, *Address before the National Civic Federation*, New York City, December 11, 1911, 46 f.

[36] Knox, *op. cit.*, 47.

[37] Taft, *op. cit.*, 22.

[38] *Ibid.*, 16.

[39] Knox, *op. cit.*, 41. For a comparison of the Far East policies of Roosevelt and Taft, see Tyler Dennett, *Roosevelt and the Russo-Japanese War* (N. Y., 1925), 320 ff. An interchange of communications between Roosevelt and Knox shows clearly that the latter, if he was ignorant of the former's unofficial acceptance of membership in the renewed

Anglo-Japanese Alliance, desired to proceed with his own Manchurian policy.

[40] For the text see MacMurray, *op. cit.*, I, 800.

[41] *Foreign Relations, 1909*, 211.

[42] See statement issued to the press by Secretary Knox, January 6, 1910.

[43] J. O. P. Bland, *Recent Events and Present Policies in China* (London, 1912), 319.

[44] *Foreign Relations, 1910*, 235.

[45] *Ibid.*, 240.

[46] *Ibid.*, 240, 261 f.

[47] *Ibid.*, 251 f.

[48] *American Review of Reviews*, XLI, 162.

[49] *Foreign Relations, 1910*, 269.

[50] Convention of July 4, 1910; MacMurray, *op. cit.*, I, 803.

[51] Texts in MacMurray, 1229; also in MacMurray, *The Sino-Japanese Negotiations of 1915* (Wash., 1920).

[52] Treaty of July 3, 1916; see MacMurray, *Treaties*, II, 1328.

[53] Willoughby, *op. cit.*, I, 243.

[54] *Foreign Relations, 1909*, 178.

[55] For text see MacMurray, I, 866.

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[57] Agreement of June 18, 1912; MacMurray, II, 1021.

[58] In the *Far Eastern Review*, XI, 229.

[59] Correspondence and text in Pamphlet No. 41 of the Carnegie Endowment for International Peace (Wash., 1921).

[60] Overlach, *op. cit.*, 196.

[61] Knox, *The Monroe Doctrine and Some Incidental Obligations in the Zone of the Caribbean*, address before the New York State Bar Association, New York City, January 19, 1912, 35.

[62] Latané, *American Foreign Policy*, 549 f.; *The United States and Latin America* (N. Y., 1920), 282 f.

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[65] George T. Weitzel (former U.S. minister to Nicaragua), *The United States and Central America; Policy of Clay and Knox*, 11, reprinted from the *Annals* of the American Academy of Political and Social Science, Philadelphia, July 1927.

[66] Munro, *op. cit.*, 235.

[67] *Treaties and Conventions*, III, 2740.

[68] See Juan Leets, *United States and Latin America: Dollar Diplomacy* (New Orleans, 1912).

[69] *Speeches Incident to the Visit of Philander Chase Knox, Secretary of State of the United States of America, to the Countries of the Caribbean*, February 23 to April 17, 1912 (Wash., 1913).

[70] Weitzel, *op. cit.*, 7.

[71] Knox, *Speeches Incident to the Visit*, 57.

[72] Herbert Kraus, *Die Monroedoktrin* (Berlin, 1913), 230 f.

[73] Sen. Doc. 640, 62 Cong., 2 Sess.

[74] Sen. Doc. 694, 62 Cong., 2 Sess.

[75] See Carl Russell Fish, *American Diplomacy* (N. Y., 1915), 450.

[76] Sears, *op. cit.*, 508.

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[78] For a good running account of this controversy from its origin to its solution see Latané, *American Foreign Policy*, 461 f., and the authorities there cited. See also Volume VIII of this series.

[79] Malloy, *Treaties and Conventions*, II, 1521.

[80] *Ibid.*, I, 748 f.

[81] *Ibid.*, III, 2966.

[82] *American Journal of International Law*, IV, 948 f. See *ante*, p. 274.

[83] See Latané, *op. cit.*, 455 f.; Fish, *op. cit.*, 434 f.

[84] See Sears, *op. cit.*, 499 f.

[85] Proclamation of President Taft, January 18, 1910.

[86] Proclamation of President Taft, January 29, 1910.

[87] Proclamation of President Taft, February 7, 1910.

[88] Proclamation of President Taft, February 9, 1910.

[89] Davis, *op. cit.*, 241.

[90] "Canada and Reciprocity," in *World Today*, July 1911, 878 f.; *cf.* also *Journal of Political Economy* (1911), XIX, 513 f.

[91] Sears, *op. cit.*, 504.

[92] Page 7 f.

[93] *The General Arbitration Treaties with Great Britain and France* (Sen. Doc. 353, 62 Cong., 2 Sess.), 20 f.

[94] Knox to Taft, October 23, 1914, Taft MSS.

[95] Knox to Taft, November 21, 1914, *Ibid.*

[96] Address before Americus Republican Club, Pittsburgh, Pa., April 27, 1916.

[97] Lodge, *op. cit.*, 79 f.

[98] *Ibid.*, 100.

[99] *Ibid.*, 117. Lodge's speech was delivered on February 28, and Knox's on March 1. It was partially on Knox's suggestion also that Lodge refused to give the information requested in Henry White's cable while President Wilson was on the high seas; *cf.* Lodge, 124, 128.

[100] *Congressional Record*, March 4, 1919, 4974; Lodge, 118 f.; Learned, *op. cit.*, 400 f.

[101] Learned, *op. cit.*, 405, who cites the pages of the *Congressional Record.*

[102] Sen. Doc. 106, 66 Cong., 1 Sess.

[103] Lodge, 316 f.

[104] *Congressional Record*, November 19, 1919, 8768.

[105] See Quincy Wright, *The Control of American Foreign Relations* (N. Y., 1922), 292, note 28.

[106] H. A. L. Fisher, *op. cit.*

[107] Henry Lane Wilson, *op. cit.*, 297 f.

INDEX

Prepared by DAVID M. MATTESON

Adams, John, fisheries, 232.

Adee, A. A., as Assistant Secretary, 13, 32; war proclamation, 96; on Philippines, 127; on Boxer trouble, 146–148; on Russia and Manchuria, 151; canal convention, 158; Turkish claims, 179; on Stone kidnapping, 179; career, on diplomatists, 280.

Aguinaldo, Emilio, coercion advised, 127.

Ainsworth, F. C., War Department records, 243.

Alaskan boundary, controversy forecast, 18; British contention, 128; and trade on Clayton-Bulwer Treaty, 128, 154; Hay's proposed judicial examination, 129; Canadian attitude, 129, 130; *modus vivendi*, 129; renewal of Hay's plan, convention, 168, 169; members of court, 169, 201; Canadian irritation, Roosevelt's stand and adjudication, 170–172, 201; problem, 200; responsibility for controversy, 201; Knox's services, 317.

Aldrich, N. W., and Taft's cabinet, 321.

Algeciras Conference, American delegates, convention, 207; American influence, 208, 390; reservation, 208, 391; importance, 209.

Allen, H. N., on Japan and Korea, 186.

Alliance, Anglo-Japanese, 150; Roosevelt and, 407.

Almodóvar del Rio, Duke de, and peace, 106, 107.

Alverstone, Lord, Alaskan boundary, 170–172, 201.

Amador Guerrero, Manuel, Panama conspiracy, 165.

American Society of International Law, Root as president, 278.

Anderson, C. P., fisheries treaty, 237.

Anderson, Luís, Central American conferences, 262, 265; on lack of union, 262.

Annexations, from Nicaragua, 338. *See also* Hawaii; Philippines.

Arbitration, Samoan claims, 133; Venezuelan affair, 174, 177; Hay's draft general treaties, Senate attitude, 187, 225; Hague Conference and general treaties, 222; as American doctrine, 224; Hague Tribunal, 224; Root's treatise, list, reserved matters, 225, 226, 247, 258, 396; of fisheries question, 235–237; Central American agreement, 262; Knox's draft general treaties, Senate's objection, 346, 347. *See also* Hague Conferences; League of Nations; World Court.

Argentina, minimum-tariff agreement, 345; general arbitration treaty, 396. *See also* Latin America.

Army, Root and reorganization, general staff, 202, 203; War College, 203, 204; service schools, 204; militia as reserve, 204; joint service board, 205.

Army War College, Root and, 203.

Arthur, C. A., and Sherman, 6, 7.

Asylum, Sherman's *dictum*, 365.

Attorney-General, qualities, 311.

Austria-Hungary, commercial relations, 17; and Cuba, 89, 90, 94, 95; protection of Spanish inter-

ests, 97; Boxer indemnity remitted, 251; general arbitration treaty, 396.

Bacon, D. C., career, 286.
Bacon, Robert, on Root's American doctrine, 218; Root and secretaryship, 276; term as Secretary, 285; ancestry, 285, 286; training, 286; and Roosevelt, 286; in finance, 287; Assistant Secretary of State, 287, 290; Central-American mediation, 288; intervention in Cuba, 289, 290; tripartite draft Panama treaties, 290–295; international conservation conference, 295; World Court, 296; and under-secretaryship, 296, 323; ambassador at Paris, 297; Latin-American interests, 298; attitude on World War, 298; wartime services, 299; death, 299; material, 402.
Bacon, W. B., career, 286.
Balfour, A. J., on Cuba, 123; policy in China, 139; Alaskan boundary, 171.
Barker, W. B., on Cuban conditions, 62.
Beirut affair, 181.
Belgium, Congo annexation, 214; Boxer indemnity, 251; minimum-tariff agreement, 345.
Beresford, Lord Charles, report on China, 136; on co-operation there, 137.
Bering Sea. *See* Fur seals.
Berlin Congo Conference, 211.
Bimetallism, Sherman's attitude, 7; attempted international conference, 120.
Bismarck, Fürst von, Congo, 211.
Blanco, Ramón, in Cuba, 55, 61, 62, 86.
Blockade, questions in Spanish War, 96.
Boer War, American sympathy, mediation, 152.
Bolivia, questions under Sherman, 364; general arbitration treaty, 396. *See also* Latin America.
Bonaparte, C. J., and patent bill, 320.
Boundaries, marking Canadian, 270–273; joint Canadian commission to adjust questions, 274. *See also* Alaskan.
Bowen, H. W., Venezuelan affairs, 174, 177.
Boxer movement, purpose, belittled, 144; relief expeditions, American purpose and policy, 143–146; problem and process of negotiation, 146–149, 182; American remission of indemnity, 247–250, 398; other remissions, 251.
Brandegee, F. B., Wilson conference, 351..
Brazil, minimum-tariff agreement, 345; tariff question, 363; general arbitration treaty, 396. *See also* Latin America.
Brice, A. C., on Cuban conditions, 62.
Brückner, Joseph, proposed private mission to Germany, 92.
Brussels Congo Conference, 212.
Bryan-Chamorro Treaty, 338.
Bryce, James, fisheries arbitration, 235; Canadian agreements, 271, 273, 274; on Knox, 304.
Buchanan, C. I., Central-American conference, 263.
Buck, A. E., on Anglo-Japanese Alliance, 150.
Bülow, Fürst von, and Cuba, 93; and Philippines, 99; on America and Algeciras Conference, 208.
Bülow, Otto von, and Cuba, 93.
Bunau-Varilla, Philippe, Panama conspiracy, 165–167; canal treaty, 168.
Burke, W. J., on Knox, 309, 310.

Bushnell, A. S., and senatorship for Hanna, 9, 12.
Buttrick, John, 194.

Cable, Knox and Pacific, 317.
California, anti-Japanese school regulation, 253–255.
Cambon, Jules, and blockade, 97; peace protocol, 106.
Canada, Sherman's attitude, 7; frontier disarmament, 270; marking boundary, 270; general or special settlement of questions, 272; treaty for protection of fisheries, 273; agreement on salvage and conveyance of prisoners, 273; joint commission on boundary questions, 274; international conservation conference, 295; attempted reciprocity, 344–346. *See also* Alaskan boundary; Fisheries; Fur seals.
Canalejas, José, de Lôme's letter, 68.
Cánovas, Antonio, assassination, 52.
Capture, proposed immunity of private property, 222; proposed international prize court, 222.
Carnegie, Andrew, Pan-American Building, 219.
Carnegie Endowment for International Peace, Root as president, 278.
Cassini, Count, on open door, 142.
Castro, Cipriano, as dictator, 173, 174.
Central America, wars, 261; joint Mexican-American mediation, 261, 288; conference and general treaty, 262; union movements, 262; Washington conference, Root's address, 263–265; results of conference, 265; international court, 265–267; court in action, 267, 268; end of court, 268; Knox's policy and tour, 335, 339; his draft stabilizing treaties, 336–338. *See also* Isthmian canal; Latin America.
Central American Pedagogical Institute, 262, 265.
Chamberlain, Joseph, on American alliance, 123; and Anglo-American questions, 127; on Chinese policy, 136.
Chang, Prince, Boxer negotiations, 148.
Chile, and Isthmian canal, 160; general arbitration treaty, 396. *See also* Latin America.
China, Sherman and anti-foreign sentiment, 15; Germany and Kiaochow, 18; Day and foreign leases, 108; British feeler for cooperative action, 122, 137; as menace to world peace, 134; Hay and open-door policy, 134; partition movement, British commercial attitude, 135; American policy, 136, 138; Rockhill's memorandum on open door, 138–140; Hay's open-door notes to powers, 141; response, 141–144; Russia and Manchuria, Hay's warning, 149–151, 182–185; Russo-Japanese War and neutrality, 185–187; general arbitration treaty, 247, 258; Japanese-American notes on policy, 259; Knox's policy, Manchurian railway plan, 328–331; effect of discontinuing Knox's policy, 331; Taft and railway loans, 331–333; first consortium, 333–335. *See also* Boxer movement.
Chinese immigration, Sherman's attitude, 7; naturalization, 15; exclusion from Hawaii, 36.
Ch'ing, Prince of, on remitted Boxer indemnity, 249.
Choate, J. H., Alaskan boundary, 129, 168–170; on aftermath of

Boxer movement, 144; Hague Conference, 222.
Chun, Prince, Taft's letter, 331.
Civil rights, for Filipinos, 199.
Civil service, classification of diplomatic and consular service, 239, 326.
Claims, Cuban tobacco, 43; German commission, 110; Venezuelan, forcible collection of contractual, 174; Turkish, 178, 179; Shimonoseki indemnity, 251; Nicaraguan commission, 337. *See also* Boxer movement.
Clark, Champ, on McKinley and Sherman, 10.
Clayton-Bulwer Treaty, trade on Alaskan boundary, 128, 154; Hay's first abrogation treaty, 153, 154; objections to neutralization, 154–156; Senate attitude and changes, 156–158; British rejection, 158; final abrogation treaty, 158, 159, 228; American desire for abrogation, 228; text on joint control, 396. *See also* Isthmian canal.
Cleveland, Grover, Cuba, 41, 42.
Colombia. *See* Isthmian canal; Latin America.
Commerce, Sherman and relations, 17; Japanese-American notes on Pacific policy, 259. *See also* Dollar diplomacy; Open door.
Concha, J. V., and canal, recall, 162.
Conger, E. H., Boxer siege, 146; Boxer negotiations, 147, 151; on Anglo-Japanese Alliance, 150.
Congo, Leopold and exploitation, 209–213; Berlin Congress, recognition, 211, 212; slave-trade conference, 212; Anglo-American protest on treatment of natives, 213, 214, 391, 392; annexation to Belgium, 214.
Congress, Fifty-fifth: Hawaii, 34–37, 40; Cuba, 64, 66, 87, 88; Fifty-sixth: canal treaty, 156–158; Platt Amendment, 386; Fifty-seventh: canal, 158, 159, 162, 315; army reorganization, 203; Fifty-ninth: Congo, 213; immigration, 257; Sixty-second: Magdalena Bay, 340, 341; fur seals, 343; Canadian reciprocity, 345; Sixty-fifth: League of Nations, 351; Sixty-sixth: League of Nations, 352–354; German peace, 354; Sixty-seventh: German peace, 355.
Conservation, American-Canadian agreement on fish, 273; North-American conference, 295. *See also* Fur seals.
Consortium, first Chinese, 333, 334; Wilson and American withdrawal, 334.
Constitutional conventions, Root's service, 195, 277.
Consular service, protection in Turkey, 181; as a career, 238; regulation, 241; union with diplomatic service, 242; rights in Peru, 364.
Contraband, horses as, 364.
Coolidge, T. J., Turkish affairs, 180.
Cornell, A. B., and Sherman, 6.
Cortés, Enrique, draft treaties, 229.
Costa Rica, and Hague Conference, 219; general arbitration treaty, 396. *See also* Central America; Latin America.
Cramp, C. H., warship for Turkey, 178, 179.
Crane, W. M., Taft's Cabinet, 321.
Creel, E. C., Central-American conference, 263.
Cromwell, Nelson, and Panama revolt, 165.
Cuba, Sherman's attitude, 8, 20, 21; projected conference on attitude of powers (1897), 21; disclaimer

of designs on, 21, 82; Cleveland's final warning, 41; promised reforms (1897), 41; McKinley's desire to avoid problem, 42; enforcement of neutrality, 42, 47, 52, 54, 56, 58; release of American citizens, 43; tobacco claims, 43; basic problem of reform, 43; American impatience, 44; American purchase policy, abandonment, 44; American note on evils (1897), 45, 46; reconcentration, 45, 46, 56, 61, 85, 86; Spanish reply on evils, insurgent and American responsibility, 46–48; Spanish resentment against Lee, 48; Woodford's instructions as minister, 49, 50; good offices, 50, 54, 82; his original attitude, 51; de Lôme's assurance to home government, 51, 52; Woodford's first interview, time limit on reply, 52; Gullón's reply to Woodford, autonomy, 53–55; Blanco replaces Weyler, 55; American policy and elections, optimism, 55–57; Cuban Junta and autonomy or independence, 57, 63; response to Gullón's note, 57, 61; promulgated reforms, 59; in annual message, Day's collaboration, possible courses, 59; reception of message, 60; chance of progress, attitude of Cubans, 61–63; as to despair of American Administration, 63, 65, 67, 68; influencing episodes, 64; Havana demonstrations, 64–67; sending of the *Maine*, 67, 68, 72–74; de Lôme's letter and dismissal, 68–71; destruction of the *Maine*, effect, 74, 75, 78, 79, 81; dilemma of both Governments, 76–78; Woodford and American occupation, 78; Day's demand for quick solution, 78–80; Spain's vague reply, effect, 80–82; hope for European mediation, 80, 81, 93; impossible definite American proposal, independence, 82, 83; proposal considered, public pressure, 83–85, 105; armistice question, 85–87; papal mediation, 86, 93, 94; intervention message and resolutions, 87, 88; attitude of powers, 89–92, 123; Day's reaction to attitude, 92; arranged formal note of powers, reply, 94; proposed note for delay, 95; Spanish relinquishment, 105, 106, 385; Root and post bellum problems, 197; trouble and intervention, 288–290; status, 385; conditions of American withdrawal, Platt Amendment, 386. *See also* Spanish-American War.

Cullom, S. M., on McKinley and Sherman, 10; and Hay-Pauncefote Treaty, 158; and Fisher, 322.

Cushing, Caleb, Adee on, 281.

Danish West Indies, Hay and acquirement, 187.

Davis, C. K., and Hay-Pauncefote Treaty, 159.

Day, Luther, father, 27.

Day, Luther, son, 28.

Day, Mary E. (Schaefer), 28.

Day, Rufus, 28.

Day, Stephen, 28.

Day, W. R., as Sherman's subordinate, 13, 29–32; Hawaiian annexation, 16, 34; Cabinet attendance while subordinate, 22, 30; appointment as Secretary, 27, 30; importance of service, 27; birth and training, 27; law practice, judgeship, 28; marriage, sons, 28; personal relations with McKinley, 28, 29, 111, 371; amateur diplomacy, 29, 112; and responsibility

for foreign policy, 31; subordinates, 32; wartime diplomacy, 96; Germany and Philippines, 101; retention of Philippines, 102, 104; peace protocol, 106; routine, 108; Hague Conference, 108; resignation, 109; peace negotiations, 109; as federal judge and Justice, 109, 110; and claims against Germany, 110; retirement and death, 110; appraisement, 111; on Anglo-American relations, 123; on Hay's open-door notes, 143; and Taft's Cabinet, 322; material, 368–370. *See also* Cuba.
Day, William, 28.
Declaration of London, 223.
Declaration of Paris, and Spanish-American War, 96.
Denby, Charles, on policy in China, 136.
Deneen, ——, and Fisher, 322.
Denmark, Mormon missionaries, 16; minimum-tariff agreement, 345; general arbitration treaty, 396.
Department of Commerce and Labor, Knox and law, 317.
Department of State, development, 238; changes in original organization, 242; documentary reform, 243; proposed Under-secretary, 297, 323; Knox's reorganization, 325, 326. *See also* Bacon, Robert; Day, W. R.; Foreign relations; Hay, John; Knox, P. C.; Root, Elihu; Sherman, John.
Dewey, George, Manila Bay, 97; and Diederichs, 101; Venezuelan affair, 176.
Diederichs, Otto von, in Manila Bay, 101.
Disarmament, limitation in Second Hague Convention, 221, 394; of Canadian frontier, 270.
Dollar diplomacy, results, 308; Taft and Knox on, 327; Latin-American association, 335.
Drago, L. M., fisheries arbitration, 236.
Drummond-Wolff, Sir Henry, Cuba, 50.
Dupuy de Lôme, Enrique, Sherman and incident, 21; and promised reforms, 41; reply to protest (1897), 46; on American attitude (1897), 51, 55; on annual message, 60; on effect of Havana demonstrations, 64–67; disclosed letter and dismissal, 68–71.
Duque, Gabriel, Panama conspiracy, 165, 167.

Ecuador, general arbitration treaty, 396. *See also* Latin America.
Egypt, minimum-tariff agreement, 345.
Eliot, C. N. E., Samoan Commission, 132.
Employer's Liability Act, Knox on, 317.
Expatriation, and military service, 17; Jews in Russia, 18.
Extradition, Gaynor-Greene case, 317.

Fairbanks, C. W., and Hay-Pauncefote Treaty, 158.
Field, D. D., and Root, 195.
Fielding, W. S., reciprocity, 344, 345.
Filibustering, check to Cuban, 42, 56.
Finance, Chinese loans and consortium, 331–335; draft Central-American reorganization treaties, 336. *See also* Dollar diplomacy.
Fisher, H. A. L., on Knox, 355.
Fisher, W. L., and Treasury portfolio, 322.
Fisheries, Root and solution of

problem, 231; local restrictions, 231; origin of problem, right or liberty of fishing, 232–234; treaty of 1818, 233, 397; right of regulation, 234, 235; drawing of three-mile limit, 234; arbitration, 235, 236, 343; future disputes, 236; later treaty, 237; agreement for protection, 273.

Fitzpatrick, Sir Charles, fisheries arbitration, 236.

Foraker, J. B., and senatorship for Hanna, 9, 10, 12; and Sherman, 23; and Hay-Pauncefote Treaty, 158.

Foreign relations, Spanish War and interest, 121; diplomacy as a career, 238; regulation of service, 239–241, 326; union of diplomatic and consular service, 242; Congress and, 244, 245; and state interests, 255, 273; interchange of personnel, 325.

Foster, J. W., and Sherman, 13; Hawaiian annexation, 16, 33, 34; fur-seal protection, 19.

France, commercial relations, 17; and Cuba, 90, 94, 95; protection of Spanish interests, 97; Chinese lease, 135; and open door, 142; and Boxer troubles, 145; Algeciras Conference, 207–210, 390, 391; general arbitration treaties, 225, 346–348; remission of Boxer indemnity, 251; Bacon as ambassador, 297; and Knox's Manchurian plan, 330.

French Panama Company, sale, Knox's investigation, 161, 315.

Frye, W. P., and Hay-Pauncefote Treaty, 158.

Fuller, M. W., on status of Cuba, 385.

Fur seals, protection, Washington conference, 18–20, 120; problem of slaughter, 342; treaty, 343.

Gallatin, Albert, fisheries, 232, 397.

Gallinger, J. H., Wilson conference, 351.

Gaynor, J. F., extradition, 317.

Gentleman's Agreement on Japanese immigration, 256; statutory supplement, 257, 258.

Germany, military service of expatriates, 17; demands on China, Kiaochow, 15, 18, 108; and Cuba, 89–95; and Philippines, 98–101, 123, 124; claims commission, 110; Samoa, 132; Hay on, 133; and open door, 142; Boxer expedition, 146–149; Venezuelan incident, 173–178; Algeciras Conference, 207–210, 390; Second Hague Conference, 221, 222; Boxer indemnity remitted, 251; and Knox's Manchurian plan, 330; minimum-tariff agreement, 345; American peace, 354, 355.

Gómez, J. M., Cuban trouble, 288, 289.

Gray, George, fisheries arbitration, 236.

Great Britain, and Cuba and American relations, Kaiser's comment, 90–95, 122–124; protection of American interests, 97; and Philippines, 100, 123–125; Chinese lease, 108; Hay and good understanding, 121, 153; and common policy in China, 122, 137; Samoa, 132; and partition of China, 135–137; and Hay's open-door note, 141; and Boxer troubles, 145; Japanese alliance, 150, 408; Boer War, 152; Venezuelan incident, 174–176; Congo, 214; Second Hague Conference, 222; and Declaration of London, 223; general arbitration treaties, dominion concurrence, 226, 346–348; remission of Boxer indemnity, 251; and tripartite Panama

treaties, 293; and Knox's Manchurian plan, 329; minimum-tariff agreement, 345. *See also* Alaskan boundary; Clayton-Bulwer Treaty; Fisheries; Fur seals.
Great Corn Island, acquirement, 338.
Greene, B. D., extradition, 317.
Greene, F. V., on retention of Philippines, 103.
Grey, Earl, Root's address at dinner, 201; and Taft, 344.
Grey, Sir Edward, and Knox's Manchurian plan, 329.
Griggs, J. W., resignation, 312.
Griscom, L. C., Turkish claims, 178.
Guatemala. *See* Central America; Latin America.
Gulf of Fonseca, naval base, 338.
Gullón, Pío, and Lee, 48; first reply to Woodford, 53–55; on McKinley's annual message, 60; second note, 61; de Lôme incident, 68, 70; dilemma, 77.
Gummeré, S. R., Algeciras Conference, 207.

Hague Conferences, invitation to First, 108; Hay and, 187; Second and Pan-American Conference, 216; Latin America and Second, 219–221; limitation of armament, 221, 394; Root's instructions, 222–224; general arbitration, prize court, 222; World Court, 223; further conference, 224; Tribunal, 224; Root on value of such meetings, 393.
Hague Tribunal, Venezuelan claims, 177; institution, 224; fisheries case, 236, 343; Root as member, 279.
Haiti, general arbitration treaty, 396.
Hale, Eugene, and Taft's cabinet, 321.
Hanna, M. A., senatorial ambition and Sherman's secretaryship, 3, 8, 22, 23.
Harding, W. G., German peace, 355.
Harlan, J. M., on status of Cuba, 385.
Harris, N. D., on Algeciras Conference, 390.
Harrison, Benjamin, and Day, 28.
Hart, C. B., and canal, 160.
Hatch, F. M., Hawaiian annexation, 34.
Hatzfeldt-Wildenburg, Graf Paul von, and Philippines, 100, 124.
Havana, demonstrations (1898), 64.
Hawaii, Sherman's attitude, 8; Japan and annexation, Sherman's relation, 16, 38–40; waiting policy, 33; draft annexation treaty (1897), 33–37; Liliuokalani's protest, 37; wartime annexation by joint resolution, 40.
Hawley, J. R., and Cuba, 66.
Hay, Adam, emigrant, 115.
Hay, Adelbert, death, 159.
Hay, Charles, 115.
Hay, Clara (Stone), 116.
Hay, Helen L., 115.
Hay, John, position as Secretary, vii; England and fur seals, 19, 121; projected conference on Cuba, 21; on powers and Cuba, 93, 122, 123; powers and Philippines, 100, 124; peace suggestions, 105, 106, 374; birth and ancestry, 115; training, 115, 116; marriage, 116; Lincoln biography, 116; character, 116, 117, 119; appointment as Secretary, health question, 117, 125; on his own career, 118; and Roosevelt, 119, 160; and McKinley, 119, 120; and

conference on bimetallism, 120; qualities as ambassador, promotion of understanding, 121, 125, 153; retention of Philippines, 124, 126; Alaskan boundary, *modus vivendi*, 127–130; and Senate, 131, 156, 188; Samoa, 132, 133; on German relations, 133; and open-door doctrine, 134; on White and Rockhill, 138; open-door notes to powers, 141–144; on purpose of Boxer expedition, 145; and besieged legations, 146; problem of Chinese negotiations, 147–149; Manchuria and Korea, 149–151, 182–185; and Boers, 152; first Clayton-Bulwer abrogation, 153–158, 228; second abrogation treaty, 158, 159, 228; strain, 159; canal policy, 161; Harrán canal treaty, 162, 228; and expected Panama revolt, choice of policy, 163–165; relation with revolutionary conspirators, 165–167; Bunau-Varilla canal treaty, 168, 229; Alaskan boundary, 168–170; Turkish claims, 178, 179; Stone ransom, 180; American citizens in Turkey, 181, 182; Russo-Japanese War, 185–187, 252; minor activities, 187; record and qualities as Secretary, 188; draft arbitration treaties, 225, 346; Boxer indemnity, 248; Adee on, 281; material, 376, 377.

Hay-Bunau-Varilla Treaty, 168.

Hay-Herrán Treaty, 162, 228.

Hay-Pauncefote Treaty, first draft, rejection, 154–158; second, 158.

Hayes, R. B., and Sherman, 6.

Henry of Prussia, Prince, and Philippines, 98.

Hepburn-Spooner Canal Bill, 162, 315.

Herbert, Sir Michael, Alaskan boundary convention, 168.

Herrán, Tomas, canal treaty, 162, 228.

Herschell, Lord, Alaskan boundary, 128; death, 128.

Hill, J. J., Northern Securities, 313–315.

Hitt, R. R., and Cuba, 66.

Holleben, Theodor von, Venezuelan affair, 176.

Holmes, O. W., and Alaskan boundary, 170.

Honduras, and Hague Conference, 220; Knox's draft treaty for stabilizing, 336–338. *See also* Central America; Latin America.

Hopkins, A. J., and Fisher, 322.

Horsa, case, 42.

Horses and contraband, 364.

Hoshi, Toru, Hawaii, 39.

Hyatt, P. F., on Cuban conditions, 62.

Immigration. *See* Japanese.

Innes, A. M., fisheries treaty, 237.

International Central American Bureau, 265.

International Fisheries Commission, 273.

International law, Spanish War and Declaration of Paris, 96; Declaration of London, 223; Root's interest, 278.

Interstate Commerce Commission, Knox and vitalizing, 317.

Intervention. *See* Boxer; Cuba; Nicaragua.

Ireland, John, and papal mediation, 93, 94.

Isolation, effect of Spanish War, 121; reservation in Algeciras Convention, 208, 390, 391.

Isthmian canal, abrogation of Clayton-Bulwer Treaty, 153–159, 227, 228; attitude of Colombia and Nicaragua, 160–162; purchase of French Company, 161, 316;

Spooner Bill, 162, 315; Hay-Herrán Convention, Colombia's rejection, 163, 228; expected Panama revolt, choice of policy, 163–165, 316; Hay and revolutionary conspirators, 165–167; Panama treaty, 168, 229; American interest, 227; Root's attempted tripartite treaties, 229, 230, 290–295; Nicaragua-Costa Rica agreement, violation, 268; tolls controversy, 276, 341; Nicaraguan treaty for exclusive rights, 338; union of railroad and French Company, 363; Nicaraguan concession question (1897), 364.

Italy, commercial questions, 17; and Cuba, 94, 95; and China, 135; and open door, 142; Venezuelan affair, 177; Second Hague Conference, 222; and Boxer indemnity, 251; minimum-tariff agreement, 345; general arbitration treaty, 396.

Japan, and annexation of Hawaii, 16, 38–40; and Philippines, 126; and open door, 142; Boxer expedition, 145, 149; British alliance, 150, 408; and Russia, Manchuria and Korea, 183–185, 258; American remission of indemnity, 250; remission of Boxer indemnity, 251; general arbitration treaty, 258; notes on Pacific relations, 258–260; and Knox's Manchurian plan, 329, 330; Magdalena Bay incident, 340, 341. *See also* Fur seals; Russo-Japanese War.

Japanese, Hawaiian annexation ignores, 37; California school discrimination, Root's attitude, 253–255; Gentleman's Agreement on immigration, 256; statutory supplement of it, 257, 258.

Jews, American, in Russia, 18.

Johnson, Andrew, Sherman's attitude, 6.

Kiaochow, German lease, 15, 18, 108, 135.

King, Clarence, death, 160.

Kinney, W. A., Hawaiian annexation, 34.

Klondike, gold rush and boundary controversy, 18.

Knight *v.* United States, 312.

Knox, D. S., 304.

Knox, Lillie (Smith), 305.

Knox, P. C., and canal, 162, 316; northeastern boundary, 272; under-secretaryship, and Bacon, 296, 323; training for secretaryship, 303, 304; Bryce's opinion, 304; birth and education, 304; and McKinley, 304, 307, 311; in law, 305, 306; marriage, 306; and labour contracts, 305, 306; loyalty to client, 306; as Attorney-General, achievements, 307, 311, 317; in Senate, 307, 308, 318, 351; results of dollar diplomacy, on it, 308, 327; death, 308; tributes, 309; trust-buster, 312–315; and Roosevelt's policies, 316, 406; rate legislation, 318; appointment as Secretary, 319, 324, 325; and Taft, choosing of Cabinet, 320–325, 350; declines justiceship, 323; and departmental work, 325; reorganization of Department, 325; Oriental policy, 328, 331, 407; Manchurian railways, 328–331; Chinese loans, consortium, 332–334; Central American policy and plan, Nicaraguan note, 335; Central-American draft treaties, financial aid, 336–338; Nicaraguan claims court, 337; Nicaraguan canal treaty, 338; Latin-American visit,

on American policy, 339; Magdalena Bay incident, 340, 341; canal tolls, 341; Mexico, 341; peace policy, 342, 348; fur seals, 343; North Atlantic fisheries, 344; minimum tariff rates, 345; Canadian reciprocity, 345; draft general arbitration treaties, 346–348; World Court, 348; basis of attitude on League of Nations, 350; conference with Wilson on League, 351; round robin on League, 351; reservations and rejection of League, 352–354; separate peace with Germany, 354, 355; death, 355; appraisals, 355–357; material, 404–406.

Knox, Rebekah P., 304.

Kohlsaat, H. H., on Day's acceptance, 370.

Korea, Sherman and neutral obligations, 16; Russo-Japanese rivalry, 183–185; Japanese control, 185, 258.

Labour, Knox and contracts, 306.

Lafayette, seizure, 97.

Lammasch, H., fisheries arbitration, 236.

Land frauds, Knox and prosecution, 317.

Lansdowne, Marquess of, abrogation of Clayton-Bulwer Treaty, 158; Alaskan boundary, 168, 171.

Latin America, and tariff, Sherman's diplomatic questions, 14, 363–365; and Spanish-American War, 108; Root's tone and policy, 216–219; at Second Hague Conference, 219–221; Bacon's interest, 298; Knox's Caribbean tour, 339. *See also* Central America; Monroe Doctrine; Pan-American Conference.

Laurier, Sir Wilfrid, Alaskan boundary, 130, 168, 169.

League of Nations, basis of Knox's opposition, 350; senatorial conference with Wilson, 351; Republican senatorial round robin, 352; reservations and rejection, 352–354.

Lee, Fitzhugh, Spanish resentment, 48; on possibility of reforms, 62, 66, 67; on Havana demonstrations, 64; and sending of *Maine*, 67, 72, 73; on destruction of *Maine*, 74; and withdrawal, 87.

Leishman, J. C. A., difficulties in Turkey, 180, 181.

Leo XIII, mediation in Cuba, 86, 93.

Leopold II of Belgium, Congo, 210–215.

Li Hung Chang, Boxer negotiations, 148.

Liberia, Hay's interest, 187; minimum-tariff agreement, 345.

Liliuokalani, protest against annexation, 37.

Lincoln, Abraham, and Hay, 116.

Little Corn Island, acquirement, 338.

Loans, Chinese railway, American participation, 331–333; first Chinese consortium, 333–335; Knox's draft, Central-American treaties, 336–338.

Lodge, H. C., and Hay-Pauncefote Treaty, 158, 159; Alaskan boundary adjudication, 169–172; on Knox, 309; Magdalena Bay, 340; general arbitration treaties, 347; conference with Wilson, 351; opposition to League of Nations, 351, 410.

Lôme. *See* Dupuy de Lôme.

London Naval Conference, 223.

London *Spectator*, on attitude on Cuba, 91.

Lowell, J. R., Adee on, 281.

Lynch, W. A., and Day, 28.

McCormick, Medill, on Knox, 309.
McKinley, William, appointment of Sherman, 3, 8–13; fur seals, 19; Sherman's rancour, 22, 23; appointment of Day, 27, 30; personal relations with Day, 28–30, 111, 371; responsibility for foreign policy, 31; Hawaiian annexation, 34–36, 40; Germany and Philippines, 101; retention of Philippines, 102, 126; and peace, 105, 106; and Hay, 117, 119, 120, 156; assassination, 160; and Root as Secretary of War, 193, 197; and Knox, 304, 307, 311. *See also* Cuba.
Magoon, C. E., in Cuba, 289.
Maine, U. S. S., sending to Havana, 67, 68, 72–74; destruction, 74, 75; influence, 76, 78, 79, 81, 85; investigations, 372.
Manchuria, Sino-Russian arrangement, 149–151; Russo-Japanese rivalry, 182–185; Knox's railway plan, 328–331.
Martínez Ortiz, ——, on Bacon, 290.
Mediation, American offer in Cuba, 50, 54, 82; papal, in Cuba, 86, 93, 94; formal offer of powers in Cuba, 94; offer in Boer War, 152; to prevent Russo-Japanese War, 185; to terminate it, 187, 252, 253; joint, in Central America, 261, 288.
Merritt, Wesley, in Philippines, 102.
Mexico, joint mediation in Central America, 261, 288; Central-American arbitration and conference, 262; international conservation conference, 295; Knox's attitude, 341; minimum-tariff agreement, 345; general arbitration treaty, 396. *See also* Latin America.
Militia, Root and reorganization, 204.
Minto, Lord, Alaskan boundary, 168.
Missionaries, Sherman and protection, 15, 16; Stone kidnapping case, 179; other Turkish troubles, 180, 181.
Monroe Doctrine, and first Hay-Pauncefote Treaty, 155; Knox's explanation, 339; Magdalena Bay incident, 340, 341.
Moore, J. B., as Assistant Secretary, 13, 32; military service of expatriates, 18; war-time questions, 97, 364; canal diplomacy, 167, 168.
Moret, Segismundo, Cuban affairs, 61, 77–80, 82..
Morgan, J. P., and Bacon, 287; Northern Securities, 313.
Mormons, missionaries in Denmark, 16.
Morocco, Perdicaris incident, 188. *See also* Algeciras Conference.
Most favoured nation, and tariff preference, 14, 17, 344; American policy in China, 138.
Muraviev, Count, open door, 142.

Nagel, Charles, and Cabinet, 322.
National Security League, Bacon's services, 298.
Naturalization, of Chinese, 15. *See also* Expatriation.
Naval base, in Gulf of Fonseca, 338.
Naval warfare, London Conference, 223.
Navy, protection of citizens in Turkey, 180; joint service board, 205.
Netherlands, commercial questions, 17; minimum-tariff agreement, 345; general arbitration treaty, 396.
Neutrality, and Cuban revolt, 42, 47, 54, 56, 58; Root and World War obligations, 277.
New Orleans, U. S. S., seizure by, 97.

New York, Root in constitutional conventions, 195, 277.
New York *Herald*, on Cuban affairs, 65.
New York *Journal*, de Lôme's letter, 68.
Newfoundland, international conservation conference, 295. *See also* Fisheries.
Nicaragua, Knox's draft treaty for stabilizing, 336–338; claims court, 337; American marines, 338. *See also* Central America; Isthmian canal; Latin America.
Nicolay, John, Lincoln biography, 116; death, 160.
Nobel Prize, to Root, 280, 401.
Northeastern boundary, remaining problems, settlement, 271.
Northern Securities Case, 313–315.
Norway, minimum-tariff agreement, 345; general arbitration treaty, 396.

Oil, foreign exploitation questions, 17.
Olinda Rodriguez, seizure, 87.
Olney, Richard, Cuba, 41; Adee on, 281.
Open door, policy under Sherman, 15, 18; Hay and doctrine, 134, 138; British advocacy, 137; Rockhill's memorandum, 138–140; Hay's notes to powers, responses, 141–144; and Manchuria, 182, 183; Japanese-American notes, 259; Knox's policy, 328, 331.
Oscar II of Sweden, arbitration, 133.
Ostend Manifesto, later parallel, 21.

Pacific Ocean, Japanese-American notes on policy, 259.
Palma, T. A., and proposed autonomy, 57; and intervention, 288.
Panama, minimum-tariff agreement, 345. *See also* Isthmian canal.
Pan-American Building at Washington, 219.
Pan-American Conference, Third, and meeting of Hague Conference, 216; Root's attendance and address, 216–218.
Panther, Venezuelan incident, 174.
Paraguay, minimum-tariff agreement, 345; general arbitration treaty, 396.
Paris Peace Conference, Root and, 280. *See also* League of Nations.
Passamaquoddy Bay, boundary line, 271.
Pauncefote, Sir Julian, and Cuban note, 95; China, 122; Alaskan boundary, 129; Clayton-Bulwer abrogation, 153–159.
Payne-Aldrich Act, minimum rate agreements, 345.
Peace, Root's interest and attitude, 278. *See also* Arbitration; Hague Conferences; League of Nations; World Court.
Penrose, Boies, and Knox, 308, 324.
Peonage, Knox's prosecution, 317.
Perdicaris, Ion, release, 188.
Pershing, J. J., and Bacon, 299.
Persia, minimum-tariff agreement, 345.
Peru, questions under Sherman, 364; general arbitration treaty, 396.
Philippine Islands, effect of Dewey's victory, 97; attitude of Germany, 98–101, 123, 124; of England, 100, 124; development of retention policy, 102–104, 123, 126; and peace terms, 106, 107; attitude of Japan, 126; Root and civil problem, commission, instructions, 198–200, 386–389.
Plançon, ——, and Manchuria, 184.
Platt Amendment, 198, 386.
Polo de Bernabé, Luis, American mission, 71.
Pope's Folly Island, claim, 272.

Pork, foreign restrictions on American, 17.
Port Arthur, Russian lease, 18, 135.
Porter, Horace, on Cuba, 21.
Porto Rico, ceded, 106.
Portugal, minimum-tariff agreement, 345; general arbitration treaty, 396.
Portsmouth, Treaty of, 252, 253.
Postal frauds, Knox's prosecution, 317.
Preparedness, Bacon's propaganda, 298.
Prisoners, Canadian agreement on conveyance, 274.
Privateering, renounced in Spanish War, 96.
Prize. *See* Capture.
Proctor, Redfield, speech on Cuba, 84.

Quay, M. S., death, 307.

Race discriminations. *See* Chinese; Japanese; Jews.
Radowitz, J. M. von, and Cuba, 89.
Railways, Knox and rate legislation, 317; his Manchurian plan, 328–331; Chinese loans, American participation, 331.
Reciprocity, attempted Canadian, 344–346.
Recognition, of Panama, 168, 229; of Congo, 212.
Reconcentration in Cuba, 45, 46, 56, 61, 85, 86.
Reconstruction, Sherman's attitude, 6.
Reed, D. A., and Knox, 305, 309.
Reed, J. H., and Knox, 305.
Reid, Whitelaw, feeler on Cuba, 44.
Resumption, Sherman's achievement, 6.
Reyes, Rafael, Panama negotiations, 230.
Rhodes, J. F., on McKinley and Sherman, 10.
Richthofen, Baron von, and Philippines, 100; Samoa, 132.
Rio Janeiro, Pan-American Conference, 216–218.
Robinson, G. F., and Day, 28.
Rockhill, W. W., as diplomat, 138; memorandum on open door, 138; Boxer negotiations, 147, 150; on keeping door open, 183; on Wilson and consortium, 334.
Rogers Act, 242.
Roosevelt, Theodore, and Japan and Hawaii, 39; advocates Philippine movement, 98; and Hay, 119, 160; on Hay and treaty of peace, 127; Hay-Pauncefote treaties, 154, 155, 159; canal policy, 161–163; and Panama revolt, 163–167, 316; Alaskan boundary, 168, 170; Germany and Venezuela, 174; Russo-Japanese peace, 187, 252, 253; Perdicaris affair, 188; appointment of Root, relations, 206, 390; on Root's Latin-American tour, 219; Second Hague Conference, 221; order on diplomatic service, 239; order on consular service, 241; Japanese trouble in California, 254; order on Japanese immigrants, 257, 258; and Bacon, 286, 287; intervention in Cuba, 288; trusts, 313, 314; and Knox, 316; and Taft's Cabinet, 320, 407; on fur seals, 343; on Canadian reciprocity, 346; and Anglo-Japanese Alliance, 407.
Roosevelt, Mrs. Theodore, acknowledgment to, 376.
Root, Elihu, on Boxer problem, 147; Alaskan boundary, on it, 169–172; appointment as Secretary of State, training for it, 193, 206; appointment as Secretary of War, 193, 206; ancestry, birth, and educa-

cation, 194, 195; as lawyer, 195, 196; constitutional conventions, 195, 277; problem of Cuba, 187, 385, 386; of Philippines, instructions to commissioners, 198–200, 386–389; general staff and War College, 202–204; service schools, 204; militia, 204; joint service board, 205; resignation as Secretary of War, 206; Algeciras Conference, 207–209, 390, 391; Congo, 209, 213–215, 391, 392; Third Pan-American Conference, address, 216–218; Latin-American tour, policy, 218, 219, 261; Pan-American building, 219; Latin America and Second Hague Conference, 220, 221; Second Hague Conference instructions, 221–224, 393–395; London Conference, 223; World Court, 223, 265, 269, 280, 296, 395; general arbitration treaties, 225, 247, 258, 396; tripartite Panama negotiations, 229, 230, 290–295; and settlement of fisheries problem, 231; on fisheries regulations, 235; fisheries arbitration, 236, 237; regulation of diplomatic service, 239–241; and of consular service, 241; documentary reform, 243; relations with Senate, 245; remission of Boxer indemnity, 248–250, 398; anti-Japanese action in California, 254; Gentleman's Agreement, 256; Japanese note on Pacific relations, 258–260; joint mediation in Central America, 261; Central-American conference, 263–265; Central-American court, 265–267; Canadian boundary, 270–272; policy on Canadian questions, 272; protection of border fisheries, 272, 273; Canadian agreement on salvage and conveyance of prisoners, 273; Canadian boundary-waters commission, 284; resignation, and Bacon, 276, 278; in Senate, 276; canal tolls, 276; Mexican relations, 276; neutrality, 277; Russian mission, 277; Washington Conference, 277; president of International Law Society, addresses, 278; attitude and services for peace, 278; in Hague Tribunal, 279; and Peace Conference, 280; Wilson and Nobel prizes, 280, 401; qualities, 281, 282; on Knox, 317; material, 381–384; and Roosevelt, 390.

Root, Oren, 194.

Root-Cortés draft treaties, 230, 290–295.

Rush, Richard, fisheries, 232, 397; frontier disarmament, 270.

Rush-Bagot Agreement, 270.

Russia, American Jews, 18; Port Arthur lease, 18, 108, 135; and China, 18; and Cuba, 90, 94, 95; and open door, 142, 143; Manchuria and Korea, Japanese rivalry, 149–151, 182–185; remission of Boxer indemnity, 251; Root in mission to, 277; and Knox's Manchurian plan, 329, 330; minimum-tariff agreement, 345. *See also* next title; Fur seals.

Russo-Japanese War, foreshadowed by Anglo-Japanese Alliance, 150; Hay and neutralization of China, 185–187; American problems, 186; American mediation, 187, 252, 253; American attitude, 252.

Safety Application Law, Knox and legal test, 317.

Sagasta, P. M., Ministry, 53; Cuban dilemma, 77.

Salisbury, Marquess of, and Philippines, 100, 127; and Spanish-American peace, 105; fur seals,

120; Alaskan boundary, 129; open door, 141; on spheres of influence, 144; Boxer troubles, 146; abrogation of Clayton-Bulwer Treaty, 157.
Salvador, general arbitration agreement, 396. *See also* Central America; Latin America.
Salvage, Canadian agreement, 274.
Samoa, Sherman's attitude, 7; failure of joint control, 132; commission and partition plan, 132, 133.
Sandford, H. S., Congo, 211.
Santo Domingo, bond question (1897), 364.
Savornin Lohman, A. F. de, fisheries arbitration, 236.
Schaefer, Mary E., Mrs. Day, 28.
Senate, Hay's relations, 131; and foreign affairs, 244, 245; Root's relations, 245; Knox's arbitration treaties, 346, 347.
Sherman, John, explanation of secretaryship, 8–13; party loyalty, 3, 5, 9, 12, 13; record of services, 4; birth and training, 4; marriage, 4; in House, 5; in Senate, attitude on important questions, 5–8; as Secretary of the Treasury, 6; as presidential timber, 7, 9; failing memory, 8, 22; actual influence as Secretary, subordinates, 13, 22, 30, 32; Latin America and tariff, 14, 363–365; Chinese relations, 15, 18, 122; neutrality in Korea, 16; Mormons in Denmark, 16; Japan and Hawaii, 16, 34, 38; European relations, 17, 18; fur seals, 18–20; Cuba, and annexation, 20, 21; resignation, 21; last days, death, 22; passing of type, 23; material, 361–363.
Sherman, Margaret C. (Stewart), 4.
Shimonoseki indemnity, remission, 250.
Silver. *See* Bimetallism.
Slave trade, Brussels Conference, 212.
Smalley, G. W., on Cuban note of powers, 95.
Smith, A. D., 305.
Smith, C. E., on Knox in Cabinet, 316.
Smith, Lillie, Mrs. Knox, 305.
Smith, Richard, Sherman's letter on secretaryship, 12.
Spain, minimum-tariff agreement, 345; general arbitration treaty, 396. *See also* Cuba; Spanish-American War.
Spanish-American War, and Hawaii, 40; intervention message and resolutions, 87, 88; proclamation, no privateering, 96; blockade questions, 96; protection of interests, 97; first peace suggestions, 105, 106, 123, 374; protocol, 106, 107; attitude of Latin America, 108; influence on foreign outlook, 121; peace negotiations, 125–127, 384, 385. *See also* Cuba; Philippines.
Speck von Sternburg, Baron, Samoan question, 132.
Spooner, J. C., and Hay-Pauncefote Treaty, 158; Isthmian canal, 162, 315.
Spooner Bill, 162, 315.
Spring-Rice, Cecil, on German policy, 124.
Standard Oil Company, and foreign exploitation, 17.
Stanley, H. M., Congo, 211.
States, interests and foreign relations, 255, 273.
Stewart, Margaret C., Mrs. Sherman, 4.
Stewart, W. M., on Isthmian canal, 154.
Stone, Clara, Mrs. Hay, 116.
Stone, Ellen M., kidnapping incident, 179.

Straight, Willard, Chinese consortium, 333.
Supreme Court, Day as Justice, 110; trust cases, 313–315; on status of Cuba, 385.
Sweden, minimum-tariff agreement, 345; general arbitration treaty, 396.
Switzerland, minimum-tariff agreement, 345; general arbitration treaty, 396.
Swope, H. B., and Knox, 305.

Taft, W. H., Philippine Commission, 198; in Cuba, 289; formation of Cabinet, Knox's influence, 320–325, 350; on dollar diplomacy, 327; on Chinese loan, 331, 332; Magadalena Bay incident, 341; Canadian reciprocity, 344, 345.
Takahira, Baron Kogoro, Gentleman's Agreement, 256; note on Pacific relations, 258–260.
Tariff, Sherman's attitude, 7, 8; most favoured nation and preference, 14, 17; attempted Canadian reciprocity, 344–346; Payne-Aldrich minimum rate agreements, 345; Latin-American questions (1897), 365.
Taylor, Hannis, on Cuban policy, 60.
Telegraph, and foreign affairs, 242.
Tetuán, Duke of, Cuban questions, 47, 51, 52.
Thayer, W. R., on McKinley and Sherman, 10; on Hay's character, 116.
Thurston, L. A., Hawaiian annexation, 34.
Tobacco, Cuban controversy, 43.
Tower, Charlemagne, on Russia and open door, 143.
Treaties, draft Hawaiian annexation, 34–37; Spanish-American peace, 125–127, 384, 385; Samoan, 133; abrogation of Clayton-Bulwer, 153–159, 228; draft Hay-Herrán canal, 162, 228; Hay-Bunau-Varilla canal, 168, 229; Alaskan boundary, 169; Portsmouth, 187, 252, 253; Algeciras, 207–209, 391; Congo, 212; draft tripartite Panama, 229, 230, 290–295; North Atlantic fisheries, 235–237; Central-American, 262, 265; Canadian boundary, 271, 272, 274; protection of border fisheries, 273; with Canada on salvage and prisoners, 273; draft, stabilizing Central-American states, 336–338; Nicaragua canal control, 338; fur-seal protection, 343; minimum tariff, 345. *See also* Arbitration; Hague Conferences.
Tripp, Bartlett, Samoan Commission, 132.
Trusts, Sherman's relation, 7; Knox's prosecution, 312–315.
Turkey, American claims, disguised payment, 178, 179; Stone ransom, 179; Leishman's difficulties, 180; protection of American citizens, 180; minimum-tariff agreement, 345.
Turner, George, Alaskan boundary, 169–172.

Uruguay, minimum-tariff agreement, 345; contraband question, 364; general arbitration treaty, 396.

Vandewater, ——, and Taft's Cabinet, 321.
Venezuela, Sherman's attitude on boundary, 8; and Spanish-American War, 108; revolutions and international obligations, 173; Anglo-German blockade, 174; British attitude, 175; Roosevelt and Germany, 176, 177; arbitra-

tion, 177; asylum question, 365. *See also* Latin America.
Victor Emmanuel III of Italy, on Isthmian canal, 160.

Wadsworth, Mrs. J. W., Jr., acknowledgment to, 376.
Waldersee, Graf von, Boxer Expedition, 147, 148.
Walsh, T. J., on Knox, 308, 312, 314.
War Department, and dependencies, 194, 196.
Warren, F. E., on Knox, 309.
Washington Conference, Root as delegate, 277.
Webster, Daniel, on Chinese policy, 138.
Weyler, Valeriano, in Cuba, 43, 45; replaced, 55.
White, A. D., Cuban question, 21; Philippines, 100; on Samoan question, 132; and Root, 194.
White, Henry, Venezuelan affair, 175; Algeciras Conference, 207, 208; resignation, 297.
Wickersham, G. W., and Fisher, 322.
Wilhelm II of Germany, Cuba, 89, 90; Philippines, 99.
Wilson, H. L., Congo, 210, 214; on Knox, 356.
Wilson, Huntington, Assistant Secretary of State, 325.
Wilson, Woodrow, and Central-American court, 268; Chinese consortium, 334; and Senate's opposition to League, 351, 353; veto of separate peace, 355.
Winthrop, Beekman, and Taft's Cabinet, 321, 407.
Wolcott, E. O., and Hay-Pauncefote Treaty, 159.
Woodford, S. L., and attitude of powers (1897), 21; American citizens in Cuba, 43; purchase of Cuba, 44; instructions as minister, 49; original attitude, 51; first interview, 52; first Spanish reply, 52–55; answer to reply, 61; de Lôme incident, 70; on Spanish dilemma, 77; policy of occupation, 78; final efforts, 85, 86; explanation to other diplomats, 89.
Woodrow Wilson Foundation, award to Root, 280.
World Court, Root's proposal to Hague Conference, 223; Central-American court, 265–268; Root and plan, 269, 280, 395; Bacon's circular note, 296; Knox's circular note, 348.
World War, German Claims Commission, 110; Root and neutral obligations, 277; Root and peace conference, 280; Bacon and American protest and preparedness, 298; his services, 298; separate peace with Germany, 354, 355. *See also* League of Nations.
Wu Ting Fang, Boxer trouble, 146.

Zelaya, J. S., and disorders, 335.

THE AMERICAN SECRETARIES OF STATE AND THEIR DIPLOMACY

VOLUME X

THE AMERICAN SECRETARIES OF STATE AND THEIR DIPLOMACY

SAMUEL FLAGG BEMIS

EDITOR

J. FRANKLIN JAMESON

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VOLUME V

TABLE OF CONTENTS

EDITOR'S PREFACE vii

WILLIAM JENNINGS BRYAN 3
BY JOSEPH VINCENT FULLER, PH.D.

ROBERT LANSING 47
BY JULIUS W. PRATT

BAINBRIDGE COLBY 179
BY JOHN SPARGO

CHARLES EVANS HUGHES 221
BY CHARLES CHENEY HYDE

APPENDICES 403

INDEX 463

EDITOR'S PREFACE

TO VOLUME X

THIS final volume of the series concludes the history of the administration of the foreign affairs of the United States through the first one hundred and fifty years of its independence. We have told it in the form of biographical sketches of each one of the Secretaries of State excepting the distinguished actual incumbent, and of the two early Secretaries of Foreign Affairs of the Continental Congress. We have put particular emphasis on the career of each Secretary while in his department.

The relations of the United States to the problems caused by the World War, which brought on the war between Germany and the United States of 1917–1918; the complicated involvements of American foreign policy with the Treaty of Versailles and the separate Peace of Berlin; the great Washington Conference for the adjustment of the problems of the Pacific and of the Far East, of 1921–1922; the important subjects of diplomacy with the Hispanic republics of America, testify that the period from 1913 to 1925 was the most active twelve years in the whole history of American foreign relations. We are still too close for any writer to pass definitive judgment on these years. Of the four Secretaries who held office, three are fortunately still living; and no living man has his definitive biographer. The Editor feels that the several narratives presented in this vol-

ume, written though they are by different authors of independent judgment, and possessing the necessary limitations of all biographical history for the comprehensive historian, nevertheless constitute the only continuous account of the history of our foreign affairs during their most active period.

The anonymous author of the sketch of the late William Jennings Bryan—he is not, as originally announced, Dr. James Brown Scott—deals not with the fiery political career of the man who made himself known as the Great Commoner; rather he gives the reader the first careful and scholarly account, based on an unusual access to and intimacy with the sources, of that politician's years as Secretary of State. Professor Pratt, whose previous studies of the causes of the War of 1812 and of the secretaryship of James Monroe have helped him to analyse not unanalogous situations in the period of our neutrality from 1914 to 1917, presents the first serious study of the diplomatic career of Secretary Robert Lansing, based on material both official and private, which first became accessible during the latter part of 1927 and during 1928. Mr. John Spargo has shown that the brief tenure of the Department by Bainbridge Colby was not devoid of important determinations of policy, particularly in defining the relation of the United States to its former belligerent associates in beginning to liquidate the results of the peace settlement.

The great work of Secretary Charles Evans Hughes in avoiding a war with Japan in 1921 is in the opinion of this Editor that man's enduring claim to statesmanship; but it was only one, if the most momentous, of his many

accomplishments during the Administrations of President Harding and Acting-President Coolidge. Probably no man was nearer to Secretary Hughes's close administration of the Department than Professor Hyde, then solicitor for the Department, who thus has obvious advantages for the task of biographer of such a contemporary personality. For a Secretary's career which touched so many questions and so many countries in affairs of the highest importance, Professor Hyde finds himself only too cramped for space.

All books, all series, ought to have an end. We have now fixed ours. We have allotted our space to each jealous author. A co-operative work of this scope has its obvious limitations, but it can do things that no lone worker can accomplish. Few will agree that each allotment of space is perfectly adequate to the Secretary whose career is sketched therein, but we hope that a majority of readers viewing the ten volumes as a whole will be persuaded that a reasonable proportion and organization have been built into the structure of the series.

The Editor seizes this occasion to express his appreciation to the Board of Advisers who have persevered with him throughout: Messrs. J. Franklin Jameson, Henry Barrett Learned, and James Brown Scott; and to the publisher, Mr. Alfred A. Knopf, who has unfailingly and unstintedly extended every help, resource, and courtesy to authors and Editor.

S. F. B.

WILLIAM JENNINGS BRYAN

SECRETARY OF STATE

MARCH 5, 1913, TO JUNE 8, 1915

WILLIAM JENNINGS BRYAN

COURTESY OF THE KEYSTONE VIEW COMPANY

W. J. Bryan

WILLIAM JENNINGS BRYAN

CHAPTER I

PREVIOUS CAREER

NO Secretary of State ever entered into his position with a more colourful background of political life, and few with less experience in public office, than William Jennings Bryan, who was commissioned on March 5, 1913.

He was born in Salem, Illinois, March 19, 1860, of middle-class parents in comfortable circumstances, Mariah Elizabeth (Jennings) and Silas Lillard Bryan, a judge of circuit court. The residence of his mother's family in the state dated back to her paternal grandfather; his father had himself made the latest remove in the westward march of the Bryans from Ireland by way of Virginia and West Virginia. The influences exerted upon the boy's character and intellect by the pioneer background and the religious atmosphere of his home life and by his membership in the Presbyterian Church, joined at an early age despite his parents' Baptist allegiance, were of no less importance than his formal education in the local schools and at Whipple Academy in Jacksonville, Illinois. He was graduated from Illinois College in 1881 and from the Union College of Law at Chicago two years later. His professional practice was begun at Jacksonville, where, in 1884, he married Mary

Baird, of a family established in Illinois by her grandparents. Throughout his career she was his sympathetic and wise helpmeet in their private life and in public and social relationships, a companion who supplemented his own magnetic personality by her simple dignity and mental poise. In the third year of their married life they moved to Lincoln, Nebraska. Drawn into politics by his interest in national affairs and his rare talent for oratory, Bryan was elected to Congress on the Democratic ticket in 1890. He served two consecutive terms. He was defeated as a candidate for the Senate in 1894 and retired into newspaper work at Omaha. But he continued his political activity, notably in championing the free coinage of silver at a fixed ratio to gold as a means of relieving farmers, shopkeepers, and labourers from the depressed prices and wages attributed to a scarcity of standard money.

The great opportunity of his life, which launched him on his spectacular career, came in the Democratic national convention at Chicago in 1896. It was his rare chance to close the debate on the decisive question of currency. He rose to the occasion with a passionate and pungently reasoned plea for bimetallism, which infused into an arid economic issue a crusading ardour that led his party to embrace it and brought to Bryan himself next day a sudden and dramatic nomination for the Presidency. His epic and eloquent campaign was unsuccessful, but it established him as one of the dominating political leaders of his generation. To the six and a half million voters who had followed him he became a legendary figure, the embodiment of a faith that has lain deep in the American spirit from its earliest mani-

festations—the aspiration of those in the front-line trenches of the struggle with nature for the fruits of agriculture and industry to control their own destinies, free from the dictation and exactions of directing financial powers. Himself a descendant of those men and women who followed across the continent the frontier along which that spirit flamed most brightly, his own soul was alight with it. He stood forth as the inspired leader of that host of

"... prairie schooner children
Born beneath the stars,
Beneath falling snows,
Of the babies born at midnight
In the sod huts of lost hope,
With no physician there,
Except a Kansas prayer,
With the Indian raid a-howling through the air,
And all these in their helpless days
By the dour East oppressed. ..."[1]

A flood of declarations of loyalty assured him the next nomination, in 1900.

In the interim between campaigns Bryan was attracted by enthusiasm for Cuban independence to enter the army for the war against Spain. He commanded the Third Nebraska Volunteer Regiment, which saw no service beyond the struggle with fever in Florida camps. He resigned as soon as the war ended, to combat the annexation of the Philippines, one of its unlooked-for results. But when the Treaty of Paris was before the Senate for ratification, a ratification that meant annexation of the islands, he used his influence on Democratic senators to

ratify the treaty, that independence of the Filipinos might be fought out in the next presidential campaign. Upon receiving his party's nomination in 1900, he made "anti-imperialism" a leading issue in his second campaign. Once more ensued glorious defeat. Thereafter he retired again to lecturing and journalism. The weekly *Commoner*, founded at this time as the organ of his personal views, remained for two decades a factor in national politics.

The Democratic party, in 1904, attempted to conciliate the financial powers by nominating a conservative candidate, Alton B. Parker, although Bryan was able to prevent the platform from assuming an outright reactionary tone. Lamentably unsuccessful, it returned to his leadership four years later with a sweeping program of political reforms and measures for governmental regulation of business. The substantially increased vote polled by him still fell short of victory. Nevertheless, the popular demand for "progressive" measures such as Bryan had championed so increased in the next years as to disrupt the Republican party in 1912. The schism offered to the Democrats their sure opportunity, providing they kept the faith.

In the convention at Baltimore, Bryan fought obstinately, courageously, and successfully to secure a progressive platform and a candidate free from dependence upon influences subversive of its principles. When he became convinced that his chosen candidate, Champ Clark, could obtain the nomination only by the favour of such influences, he threw his support to Woodrow Wilson with decisive effect. Although Wilson had long made no concealment of his opinion that Bryan was a

dangerous demagogue, both men now subordinated the irritations of the past to a co-operation in their common cause, which proved the foundation of a lasting mutual affection and regard. When Wilson became President, there was no doubt of his political obligation to offer Bryan the chief office in his Cabinet. A real interest in the country's foreign policy prompted Bryan to accept.

CHAPTER II

THE REPUDIATION OF DOLLAR DIPLOMACY

THE "New Democracy" of the Wilson Administration was worthily represented by Bryan as Secretary of State. The foreign policy of the Administration was based on no specific election-promises, but derived broadly from its principle of reasserting popular control over privileged interests. The corollary of that principle in foreign relations was that they should be conducted with the welfare of the masses of the peoples of this and the other countries in view, rather than that of these same interests. The President's friend, Walter Hines Page, appointed ambassador to Great Britain, evolved a now famous scheme of co-operation with that country to elevate the tone of international relations through the world; his more intimate counsellor, Colonel Edward M. House, was for taking Germany and perhaps Japan into the combination, thereby effecting a reconciliation of dangerous rivalries.[2] Bryan's idea, expressed as early as 1900 in his speech accepting the nomination of that year, was that the United States, by the example of its own conduct towards other countries, should become "the supreme moral factor in the world's progress and the accepted arbiter of the world's disputes."[3] He has been harshly criticized for his choice of agents to represent this high standard of international conduct, but it may fairly be said of this party leader,

who had more claims upon him for political favours than any Secretary of State ever had, that, despite a few flagrant instances, appointments for political reasons constituted only a small proportion of those made by him and that the average was not below that of preceding Administrations. And his unconventional conduct of affairs, which often scandalized a ceremonious bureaucracy and diplomatic corps, was actually the simplicity of the "Commoner," disregardful of formalities.

In taking over the conduct of the country's foreign relations Bryan brought with him one concrete project for giving effect to the principles he avowed as his guides. This was his idea for the conclusion with all nations of treaties requiring the submission of disputes that have failed of diplomatic adjustment to investigation by an international commission, and binding the contracting parties not to go to war within a year while the commission's report was being prepared. The plan differed from that of Secretary Root's arbitration treaties, not only in the procedure called for, but in the fact that it applied to all kinds of questions, not excepting those of national honour and vital interests. Bryan had been advocating such a plan since 1905, and it was understood between Wilson and him, upon his becoming Secretary of State, that he should have a free hand to attempt to put it through.[4] Cast in definite shape, it was presented to the foreign governments on April 24, 1913, through a statement by the Secretary to their representatives in Washington. In this statement Bryan struck the keynote of his administration of the Department of State: "Our nation desires to use its influence for the promotion of the world's peace, and this plan is

offered by the President with the hope that its acceptance by the nations will exert a large influence in this direction."[5] By the close of the year the plan had been embodied in treaties with the five Central American states and the Netherlands.

In matters other than his projects for the advancement of general peace Bryan generally left the formulation of principles of foreign policy to the President. A presidential statement of March 11, only a week after the inauguration, declared: "One of the chief objects of my administration will be to cultivate the friendship and deserve the confidence of our sister republics of Central and South America." It asserted, with reference to Mexico and other countries subject to revolutionary troubles, that co-operation must depend on "just government based upon law, not upon arbitrary or irregular force." It proclaimed that all actions of the United States in the affairs of the Western hemisphere would be "intended for the people and for no special group or interest."[6]

This repudiation of the "dollar diplomacy" of preceding Administrations was shortly followed by a special application in another field, the Far East. When the group of American bankers who had been negotiating for participation in the "six-power loan" to China sought to ascertain the new Administration's attitude towards their enterprise, Bryan advised against encouraging them to go on. His advice was accepted, and the reasons for not requesting them to continue were set forth in another public statement issued by the President, on March 18. The Administration, it was declared, could not approve a transaction under conditions that "touch

very nearly the administrative independence of China" and could not assume the responsibility involved that "might conceiveably go to the length . . . of forcible interference in the financial, and even in the political, affairs of that great oriental State."[7] This declaration was followed by the recognition, on May 2, of the Chinese Republic.

Another problem in relations with the Far East was that raised by Japan's protests against the restrictive land legislation being adopted in states of the Pacific coast; Bryan laboured earnestly to secure the moderation of these laws and to mollify Japanese resentment, and, in May 1913, averted a possible crisis by opposing the desire of some of his colleagues in the Cabinet to order dispositions of the fleet that threatened to provoke the hostilities for which they were designed to prepare.[8]

The contest with "dollar diplomacy" in Latin America proved a difficult one, and, notwithstanding Bryan's efforts to make amends for the past and lay the foundations for a better future, it was not productive of any notable results. The realities of "economic imperialism," arising out of the wants of backward peoples, as well as out of the greeds of special interests in the more advanced countries, proved too strong for the vaguely beneficent principles of the "New Democracy." And intervention by the Government of the more advanced country in the dealings of its citizens with backward countries professedly in the interest of those countries was hardly distinguishable in their eyes and the eyes of outsiders from intervention on any other ground. Nor was the support of "legitimate" governments a more generally popular policy.

Among Bryan's outstanding undertakings in relations with Latin-American countries were the signature, on April 6, 1914, of a treaty with Colombia disposing of the controversy over Panama, an agreement that remained unratified during his term of office; and the protracted negotiations arising out of the treaty of February 8, 1913 with Nicaragua for a canal option and naval bases, likewise unratified and the occasion of numerous protests from Salvador and Costa Rica against alleged infringements of their rights and Nicaragua's independence. His attempts to influence a loan agreement between New York bankers and the Nicaraguan Government only provoked that Government's resentment.[9] In the Dominican Republic a government was supported by naval forces of the United States and then obliged to submit to a supervision of elections and, later, to a practically all-embracing extension of the fiscal control imposed by the convention of 1907.[10] Demands for analogous financial measures in Haiti were pressed upon the revolutionary governments which succeeded each other in that unhappy country during this period. The exaction from each of these governments in turn of consent to these demands as a condition of recognition and support undoubtedly contributed to its instability. Repeated overturns entailed increasing disorders, which were finally to culminate, shortly after Bryan resigned office, in intervention and the institution in Haiti of a protectorate so far outdoing Roosevelt's Dominican project that it was still later found desirable to extend it to the sister republic. In a telegram of December 19, 1914 to Minister Blanchard, urging acceptance of a financial control, Bryan aptly expressed the practical ap-

plication of the Administration's policy towards minor American states: "Capital will not flow into Haiti except upon exorbitant terms and for speculative profits unless there is an assurance of peace and orderly government. . . . Our obligation to the American people requires that we shall give all legitimate assistance to American investors in Haiti, but we are under obligations just as binding to protect Haiti . . . from injustice or exploitation at the hands of Americans."[11] This curious variation on the old theme of "the white man's burden" was the outcome of the impact of realities upon the champion in 1900 of "anti-imperialism," under whose guidance the expansion of the hegemony of the United States in the area of the Caribbean can hardly be said to have been even retarded.

Within that area, however, the interests of Great Britain were not to be disregarded. These manifested themselves particularly in opposition to the preferential treatment of American commerce through the Panama Canal under the Act of August 24, 1912, as being in contravention of the Hay-Pauncefote Treaty. When the President finally decided that the British view was correct and that Congress should be asked to repeal the provisions in question, Bryan at first disagreed with his conclusions, but finally yielded to his arguments as to the moral obligation of scrupulous respect for treaties and the higher expediency of removing petty obstacles to the co-operation of great powers in the cause of better international relations.[12] The repeal of the exemptions, asked by Wilson on March 5, 1914, "in support of the foreign policy of the Administration," and secured, with Bryan's collaboration, on June 15, contributed materially to smoothing the way of American foreign policy, especially in Mexico.

CHAPTER III

THE MEXICAN PROBLEM

THE problem of relations with Mexico was taken up as it was left by the preceding Administration. The officials of General Huerta's provisional Government continued to be dealt with by representatives of the American Government informally as *de facto* authorities within the limits of their control. But the President's statement of March 11, 1913 made it clear that Huerta's regime, based as it was upon "arbitrary or irregular force," could not hope for recognition as the legitimate national authority and that such recognition would be given only to a government constituted "upon the consent of the governed." For a time other foreign countries held to the same attitude as the United States, in the hope that a way to the restoration of a legal basis of government might be found through an understanding between the faction controlling the Mexican capital and those holding the field against it in outlying states—a hope expressed by Bryan in telegrams of March 8 to Huerta's Minister of Foreign Affairs and of March 13 to the Governor of Sonora.[13] The Secretary opposed the arguments both of advocates of recognition of Huerta's dictatorship as the form of government best suited to the country and of the proponents of armed intervention as a means of restoring order.[14]

By the latter part of May 1913, however, the situation had not materially altered. Foreign governments

began to open formal relations with Huerta. Increasing pressure upon the Administration to follow their example was brought by business men desirous of having their affairs facilitated through the restoration of normal relations and by persons interested in a whole series of claims arising out of past disorders, the settlement of which waited upon recognition of a responsible national authority. But when the question was brought up in a Cabinet meeting, on May 23, Wilson and Bryan both firmly opposed the recognition of Huerta. No change of attitude occurred. The reiterated recommendations of the ambassador in Mexico, Henry Lane Wilson, for the opening of formal relations with Huerta were met, on July 10, by a statement that there was no question of a change.[15]

By this time it had become evident that the Administration's policy of undermining Huerta's power through its disapproval could not be effectively applied through the ambassador, who was too strongly committed to the existing regime. His resignation was accordingly obtained, and ex-Governor Lind of Minnesota was dispatched, not as a diplomatic official, but as the President's "personal representative" to expound his views and desires. The essential point of the proposals which Lind was instructed to lay before the authorities in Mexico City was that Huerta should not be a candidate for the Presidency in the coming election. When these proposals were rejected, the President rendered an account of the matter in a special message to Congress on August 27, 1913. He affirmed his intention of keeping hands off, trusting to "the steady pressure of moral force" to bring the Mexican factions to rely upon our friendly good offices for reaching a just solution of their difficulties.[16]

Instead of yielding to the moral pressure of the United States, Huerta embarked upon a further course of illegalities, resulting in his election as President despite a constitutional inhibition against successive terms of office. Facing this state of affairs, President Wilson still expressed the hope, in his address to Congress on December 2, 1913, that the usurper could be brought to resign his authority without our being "obliged to alter our policy of watchful waiting." The President did find himself called upon, however, to hasten the crumbling of Huerta's power by revoking, on February 3, 1914, the proclamation of March 14, 1912, which had prohibited the exportation of arms and ammunition to Mexico. The advantage in receiving supplies accrued to Huerta's enemies in contact with the northern border.

Before this measure had produced any important results, the situation was further complicated by the arrest at Tampico, on April 9, 1914, of an officer and boat's crew from the U. S. S. *Dolphin*, which was taking on supplies at a point where landing had been prohibited. Although the men were at once released with an apology by the local commander, the American commanding officer, Admiral Mayo, believed the offence sufficiently grave to warrant his demanding more formal amends, including a salute of twenty-one guns to the flag. When his report reached Washington, Bryan forwarded it to the President, then out of the city, with the comment: "I do not see that Mayo could have done otherwise." Wilson saw no choice but to approve the demand, and the American chargé d'affaires in Mexico was instructed to insist upon it, rejecting all Huerta's suggestions for tempering its severity. Additional warships and marines

were ordered to Tampico, and, on April 20, the President laid the affair before Congress as an affront to the nation, with a request for approval of the use of the armed forces to "obtain . . . the fullest recognition of the rights and dignity of the United States."[17]

The use to which the forces ordered to Mexican waters were actually put was determined by fresh developments in another quarter. During the night of April 20–21 news reached the Secretary of State that a cargo of arms and ammunition was about to arrive at Vera Cruz on a German merchant ship for the use of Huerta's troops. He at once telephoned to the President, recommending that measures be taken to prevent the landing of this armament, adding that he had taken the possible consequences into account in making this recommendation. The Secretary of the Navy concurring in this advice, instructions were telegraphed to Admiral Fletcher to seize the customs-house at Vera Cruz and intercept the delivery of the arms.[18]

In the morning of April 21, marines and sailors occupied the customs-house and other points on the waterfront. No organized resistance was offered, but an irregular battle developed, which led next day to the occupation of the city under fire of the fleet's heavy guns. Later in the day the chargé d'affaires in Mexico City was handed his passports. An anomalous situation was thus created that jeopardized the Administration's entire Mexican policy, owing to the resentment it aroused among all local factions and the suspicions awakened among foreign governments.

The President found a means of restoring confidence in the disinterestedness of his intentions by accepting

the good offices of Argentina, Brazil, and Chile between the United States and the Mexican factions. Through May and June a conference of mediators designated by the Governments of those countries laboured at Niagara Falls, New York, over a plan for the transition to a stable form of government in Mexico through Huerta's resignation and the organization of a provisional authority with which the United States could deal. The moral pressure of this mediation was too great for Huerta to withstand, especially as the support he had hitherto derived from his recognition by European governments was falling away now that better harmony between the United States and Great Britain had been brought about by the repeal of the exemptions from canal tolls. His submission to the mediators' plan, however, did not result in its complete application, for the Constitutionalists refused a cessation of hostilities and were menacing the capital by the time the reorganization of government recommended by the mediators took effect. The American Government, therefore, pronounced for an acceptance of the situation and the simple transfer of such authority as was retained by Huerta's nominal successor to the First Chief of the Constitutionalist Army, General Carranza. On August 20, 1914 Carranza entered the capital, and two days later he assumed the executive authority.[19]

The new situation afforded an opportunity to evacuate Vera Cruz in good order, of which advantage was taken on November 23. But relations with Mexico were not made much more comfortable. Carranza and the other remaining leaders had very quickly fallen out among themselves, and a confused, many-sided struggle

for power resulted, in which no faction developed sufficient command of the situation to warrant recognition even as a provisional national authority. Convinced that Carranza, by his stubbornness in refusing to compromise with elements of opposition which he was unable to overcome by force, had forfeited the confidence at first placed in him, President Wilson finally reached the conclusion that the only remedy for the existing disorder was to select some other leader and accord him the "active moral support" necessary to enable him to enforce a return to constitutional government. He drew up a statement to the effect that such a course would be adopted unless the factional leaders speedily reached an accommodation among themselves for a restoration of order. This statement was discussed in the historic Cabinet meeting of June 1, 1915, and tended to augment the already manifest difference of opinion between Wilson and Bryan, who perceived in it dangerous possibilities of intervention. Nevertheless, he acquiesced in its publication and telegraphed it next day to Mexico City—one of his last official acts as Secretary of State.[20]

The mediation of the South American governments in the Mexican problem suggested further possibilities to Colonel House, ever on the alert for opportunities to launch grandiose projects of foreign policy. This concrete example of co-operation, the President's repeatedly expressed desire for closer bonds of mutual helpfulness with the Latin-American republics, and certain ideas on international organization in general, likewise broached by the President in conversations about world peace, were all woven together by House into a scheme

for a permanent association of American states. Such a league, he represented to Wilson, would relieve the United States of the onerous and sometimes odious single-handed maintenance of the Monroe Doctrine and, besides helping the states of the Western hemisphere to meet their problems, would serve as a model to the world at large.

In a conversation of December 16, 1914 the President laid down the bases of a pact such as House envisaged—mutual guaranties of independence, republican government, and territorial integrity; governmental control of the manufacture and sale of munitions of war—and authorized House to sound the representatives of the South American states concerning it.

The project was left entirely in House's hands with no objection from Bryan, who was informed before conversations were begun. Besides being in thorough sympathy with the President's aspirations to improve the tone of Pan-American relationships and to advance the cause of general peace, the Secretary hoped to turn House's project to the support of another in which he was just then actively interested. This was the proposal advanced in various forms by several South American governments for arriving at an agreement on common measures for preserving the neutrality of the Western hemisphere with respect to the conflict then raging round the world, for securing the respect of neutral rights by the belligerents, and even for supplementing each other's influence in bringing the warring nations to peace. Bryan's hope that this idea, which the President had refused to entertain on its own merits, would be advanced in connexion with Colonel House's scheme was

not realized. Indeed the project itself had reached no conclusion by the time of the Colonel's departure for Europe at the close of January 1915, and it remained dormant thereafter throughout the rest of Bryan's secretaryship.[21]

CHAPTER IV

THE WORLD WAR

THE outbreak of war in Europe intruded most annoyingly upon a whole set of activities of the Wilson Administration in behalf of world peace. Having submitted its own troubles with Mexico to the mediation of the three principal South American Governments, it was busily negotiating Bryan's new conciliation treaties, renewing the Root arbitration treaties, and discussing preparations for a Third Hague Conference. Colonel House's personal efforts on his tour of Europe, in the spring of 1914, to bring about better relations among the great powers are to be regarded as entering into the Administration's program, although they had no connexion with the Department of State.[22] Both Wilson and Bryan regarded the war as an affair discreditable alike to all the countries concerned in it and of no direct interest to the United States; the official information that reached the Government from its diplomatic representatives abroad made out no clear case of right or wrong, defence or aggression on either side. Neutrality was proclaimed on August 4, 1914 as a matter of course, without discussion.

What possibility there may have been of averting or stopping the war through the use of America's good offices was ineffectively handled. A suggestion cabled from Paris by Ambassador Herrick, on July 28, that a "plea for delay and moderation" might be heeded was merely

referred that night to Ambassador Page at London as an inquiry whether our good offices "would be acceptable or serve any high purpose." And Sir Edward Grey politely put off Page's suggestions until the storm had burst. Bryan renewed the inquiry on August 1, only to be met by Page's opinion that there was now no chance until "the war has reached a breathing space." Nevertheless, the President issued, with the Secretary's "hearty approval," a statement telegraphed to the European capitals on August 4 that he would "welcome an opportunity to act in the interest of European peace, either now or at any time that might be thought more suitable." This offer elicited only denials of responsibility for the war from all parties.[23]

Unable to check the war, the Administration was forced to deal with the problems imposed by the country's neutral status. For those connected with its citizens' rights of trade a ready-made solution was at hand in the Declaration of London, signed in 1909 by the delegates of ten states, but remaining inoperative due to the British Government's failure to ratify it. It was a natural step, inspired by respect for the rights of the combatants as well as by solicitude for American and other neutral interests, for the Secretary of State to propose, by telegrams of August 6, that the belligerents should nevertheless agree to govern their conduct of naval warfare in this conflict by the nicely balanced rules of that document. Germany and Austria, seeing in the guarantees to neutral trade afforded by the declaration their only safeguard against the interruption of essential imports, accepted the proposal without reservations, subject to the concurrence of their adversaries; but the

British Government's reply, of August 22, carried modifications that amounted to a rejection by overthrowing the whole delicate balance in favour of the drastic employment of British sea power.[24] The American Government was left, under the pressure of mounting protests from citizens whose interests were injured by the measures of interference with trade already put into effect by the Allies, facing the choice between convincing the British Government of the soundness of its views or falling back upon the uncertain ground of international law previous to the attempt at codification in 1909, rendered doubly precarious by embarrassing invocations of alleged precedents to be found in the actions of the federal Government during our Civil War.

Means of pressure upon the Allies short of the maintenance of neutral rights by force might have been found in taking advantage of their dependence upon the United States for many things needed to carry on the war. But in the proclamations of neutrality it had been stated, according to custom, that "all persons may lawfully and without restriction . . . manufacture and sell within the United States arms and munitions of war."[25] No precedent to the contrary applicable in international conflicts existed, and interference with such sales might properly be regarded as an unfriendly act by the government seeking to purchase. Moreover, with all foreign trade disrupted by the outbreak of war, the military orders of the Allied Governments offered the only available means of re-establishing the economic situation. The Department of State, in a series of pronouncements emanating from its legal experts, maintained, even when a group in Congress sought to empower it to change the

rules, the position that the duties of neutrality sanctioned no restrictions on the furnishing of materials of warfare to the belligerents. The idea that the Allies' interference with what were asserted as neutral rights might be met by an interference with the duty of allowing them access to American markets was never seriously considered.

One unexpected obstacle was put in the way of the munitions trade by the opinion which Bryan communicated to J. P. Morgan and Company, on August 15, that "loans by American bankers to any foreign nation which is at war are inconsistent with the true spirit of neutrality."[26] Since the immense purchases of the Allies could not, in the long run, be financed without the extension of large credits, the trade would speedily have withered away if this attitude had been maintained; but, while not officially reversed, it was gradually sapped by interpretations, applying it only to loans offered for public subscription, culminating in the statement of March 31, 1915 that "this Government has not felt that it was justified in interposing objection to the credit arrangements" made privately by banks.[27]

The refusal to fashion a bargaining asset out of the Allies' needs left the American Government with no effective argument on its side in its debate with the British Government over questions of neutral rights of trade. Walter Hines Page, who had espoused the whole British position on the war from the beginning; Colonel House, who had not yet gone so far; and the President himself, all feared that relations with Great Britain might be seriously endangered by pushing our contentions too far. Communications to London drafted by Robert Lansing,

serving, in Bryan's absence on political work, as Acting Secretary of State, upholding the argument in behalf of the Declaration of London, were privately submitted by House to the British ambassador, who professed to see actual danger of war in the contention, and before transmission were edited by House and Wilson in such a way as to diminish their effectiveness in the anxiety to avoid giving offence.[28] Furthermore, immediately following their dispatch, Lansing was instructed by the President, on September 28, to enter upon a set of confidential conversations with the British ambassador, in which he endeavoured to point out ways whereby the British Government could work its will upon Germany's trade in commodities useful in war without impairing the ostensible integrity of the declaration. The British Government remained unconvinced and only seized upon Lansing's admissions of the shortcomings of that instrument from its point of view to press the harder for the modifications it proposed, particularly in the matter of extensions of the list of contraband of war. Ambassador Page advised that this attitude would be maintained even at the risk of war. Finally, on October 22, the American Government abandoned the effort and withdrew its proposals regarding the Declaration of London, announcing that it would uphold its citizens' rights as "defined by the existing rules of international law and the treaties of the United States."[29]

This withdrawal is to be regarded as the central feature of a comprehensive, if unformulated, understanding with Great Britain safeguarding the interests of strictly neutral trade and certain branches of trade with Germany. Upon Lansing's suggestion, the British undertook

to regulate Germany's imports through adjacent neutral countries by requiring those countries to adopt embargoes on the exportation of commodities the transit of which was to be stopped. And the application of this feature of the understanding was facilitated by a persistent refusal to co-operate with these scapegoats in any efforts to maintain neutral rights. The ultimate result was the "rationing" of the imports of these neutral countries, effected by Great Britain in conjunction with local importing "trusts." Concessions of momentary importance were received by America in the form of assurances given, in the latter part of October and the first half of November, that cotton, tobacco, turpentine, and rosin would not be included in the rapidly expanding British contraband lists.[30] These assurances, given to pacify the southern section of the United States, which did not share in the compensations of munitions contracts, proved in fact of little value, because the British contrived to get round them by interference with cargoes of such goods on various other grounds and finally revoked them one after another as it became safe to ignore the political influence of the South upon the Government's interpretation of neutrality.

Other concessions held out to the American Government were promises of more expeditious handling of cases involving American shippers, and offers to relax the embargoes on certain products of Great Britain and the dominions required by American industry, such as wool, manganese, and rubber. In regard to the latter questions further understandings were necessary. Early in December 1914 Ambassador Page and Sir Edward Grey formulated a "working arrangement" whereby

American manufacturers should be allowed to obtain embargoed commodities upon assurance against the exportation of products derived from them to destinations objectionable to the British; in return, the American Government should refrain from supporting the right of exporters to consign shipments for neutral countries simply "to order," should rescind a rule against the publication within thirty days of manifests of outgoing cargoes, and should exercise stricter supervision against false manifests.[31] The terms of this arrangement were put into effect in the course of the early months of 1915, with the principal result of bringing about a set of agreements binding American manufacturers using raw materials obtained in part from Allied territories practically to subject their foreign trade to Allied control.

While this understanding with the British Government disposed of the central contention over the Declaration of London and relieved American commerce in many respects, it by no means eliminated friction altogether. In spite of all general and special assurances given by the British Government, American trade with the neutral countries of Europe was subjected to continual interference. Before the close of the year 1914 the complaints of injured shippers became so loud and numerous that, on December 26, a general protest was cabled to London against the detention of American ships and cargoes on insufficient grounds.[32] This statement of the American case carefully avoided taking issue with the underlying principle of British naval policy, the exclusion from Germany of all commodities capable of military use. It even conceded virtually the entire British case by admitting "imperative necessity to protect

their national safety" and the "principle of self-preservation" as sufficient justification for acts of belligerents affecting neutral interests. The American Government merely asserted that the means employed were unnecessarily harsh and restrictive of the right of neutrals to trade with each other. It was an easy matter for the British Government to contest such assertions by quoting statistics showing an increase of American exports to these countries, taking no account of the interruption of their supplies from other sources, and to cite what they believed to be precedents from the American Civil War for every action complained of. Long notes to this effect were sent on January 7 and February 10, 1915, giving the Department of State much trouble to answer and leaving the situation where it was before the protest.[33]

Friction arose during Bryan's tenure of office over many other subjects, such as the control of cable communications by the Allies, and their refusal to admit the transfer to the American flag of German and Austrian merchant ships tied up in American harbours.[34] On none of these issues did the American Government maintain a firm position.

Thanks to the conciliatory attitude maintained in Washington, the Allies were able with ever-increasing effectiveness to throttle the import trade of Germany while themselves enjoying free access to American markets. This attitude was a convenient one to maintain, since it reduced materially the inconveniences encountered by American shippers and made possible a restoration of the country's shattered commercial equilibrium, while avoiding a serious conflict with Great Britain. It

entailed the grave danger, however, that Germany, despairing of relief from the blockade through the insistence of neutral countries upon their rights, would ultimately resort to some means of retaliation which would react against neutral interests in such a manner as to provoke another conflict. It was all very well to argue, as was done in a letter of the Secretary of State to the chairman of the Senate Committee on Foreign Relations, on January 20, 1915, that the whole situation was simply the result of "the fact that on the high seas the German and Austro-Hungarian naval power is thus far inferior to the British."[35] The American Government's lack of responsibility for that fact did not save it from the grim necessity, resulting from its failure to vindicate its declared rights against violation from one quarter, of meeting violations from another.

Bryan perceived dimly the dangers inherent in the one-sided character assumed by American neutrality, but it did not occur to him to rectify it by a firm insistence upon the rights asserted by the American Government against Great Britain. Away on political labours during the greater part of the crucial negotiations over the Declaration of London, he nevertheless approved such parts of Lansing's work as came under his hand. He sent to Page the telegram of December 9, 1914, stating that "there does not appear any insurmountable obstacle" to the "working arrangement" regarding embargoes and other matters.[36] He signed the elaborate defence of the Administration's neutrality policy contained in the above-mentioned letter to Senator Stone. The fact is that Bryan was as anxious as anyone to avoid the possibility of a serious conflict with Great

Britain. Nor was he any readier than his associates to grasp the chance of bringing the Allies to terms by playing off their need of our markets against their desire to close them to Germany. He steadily maintained, as in the letter of January 20, 1915, that interference was unwarranted and unneutral. While not personally a party to the undermining of his declaration against war loans, he made no effort to check it. Yet he was the only member of the Administration who possessed and consistently urged a constructive policy for avoiding the dangers that beset its course.

That policy consisted in the persistent and direct exercise of every atom of America's influence for the termination of the war. It was a policy by no means free from weaknesses, the most serious of which was the hope of victory held out to the Allies by their success in being allowed to put their blockade into effect. None the less, it offered the nearest approach to statesmanlike vision and comprehension of realities displayed by any of President Wilson's advisers.

As part of his program Bryan continued to push the negotiations for his conciliation treaties regardless of the uncongenial circumstances. He had the satisfaction, by September 15, 1914, of securing the signatures of Great Britain and France. Russia later came in, and by October 16 the total number of pacts had reached thirty—the most significant and enduring monument of Bryan's secretaryship. The Central Powers still eluded him, but he persisted in his efforts.[37]

Bryan had just one opportunity to put his policy of repeated tenders of good offices into effect, when, on September 7, 1914, the banker Oscar Straus brought him

a report of the German ambassador's statement, made the night before, that he believed his Government would accept mediation if the other belligerents agreed. With the President's consent Bryan eagerly set about interviewing the ambassadors in Washington and cabling to American ambassadors abroad. He urged upon those at London and Paris, in a telegram of the 8th, the consideration that "even a failure to agree will not rob an attempt at mediation of all its advantages because the different nations would be able to explain their attitude, the reasons for continuing the war, the end to be hoped for and the terms upon which peace is possible. This will locate responsibility for the continuation of the war and help to mold public opinion."[38] This offer to act met much the same sort of reception as the earlier one, yet Bryan deduced hope from it rather than discouragement.

He set forth his views in a comprehensive letter to the President, September 19, 1914. "I cannot but feel," he wrote, "that this nation . . . should urge mediation, since none of the nations engaged are willing to take the initiative. The responsibility for continuing the war . . . , if pressed upon the consideration of the belligerent nations, might lead them to consent to mediation. . . . It is not likely that either side will win so complete a victory as to be able to dictate terms, and if either side does win such a victory it will probably mean preparation for another war. It would seem better to look for a more rational basis of peace." He went on to make various suggestions, in addition to the principle of his conciliation treaties, for such a basis. Among these were the proposals already broached by Wilson, and incorporated by

him three months later in the projected Pan-American pact, for guarantees of territorial integrity and for governmental monopoly of the munitions business.[39] In this and a series of other letters later in the year, Bryan advocated practically all the elements of the program for the promotion of peace that the President was to undertake in December 1916–January 1917—after it was much too late to alter the course of events, which there was still a possibility of forestalling in 1914.

Bryan's appeals now fell upon deaf ears. The President had come under the spell of Colonel House's plausible scheme of a personally conducted, confidential negotiation, which began to take shape just at the time the Secretary was writing his letter of September 19. House, in turn, allowed himself to be put off by the British, lending a hand in the mean while to the negotiations resulting in the withdrawal of American advocacy of the Declaration of London, which reduced the Allies' amenability to suggestions of immediate and moderate peace by raising their hopes of crushing Germany through the blockade. The best commentary on House's futile quest of peace in America and Europe, which dragged on well into the following year, is that made by himself in a letter of August 4, 1915, to Walter Page: "I believe if we could have started peace parleys in November, we could have forced . . . a peace which would eliminate militarism both on land and sea. The wishes of the Allies were heeded, with the result that the war has now fastened itself upon the vitals of Europe."[40]

Bryan strove manfully but vainly to break through the toils of procrastination thus balefully cast over the Administration's policy. On October 4, 1914, designated by

the President as a day of prayer for peace, the Secretary delivered an address in New York on America's duty to co-operate in assuring the peace of the world which foreshadowed in many of its ideas and even expressions Wilson's address to the Senate of January 22, 1917. In and out of season he urged some immediate positive steps towards the end he sought, recommending eagerly various proposals that fluttered timidly in from states of the New World and the Old for concerted action of the neutrals in defining and maintaining their rights and duties and pooling their influence for peace. The project of a Pan-American pact, as has been stated, afforded him one of these occasions, but without result. The influence of the Allies, exercised through Colonel House, sufficed to keep the President in inaction. Bryan finally accepted House's plan for a personal mission to Europe, unpromising of favourable results though it was, as the only available alternative to the more straightforward measures he had been vainly advocating.

While the Colonel was at last on his way to England, the German Government announced its blow of retaliation against the British blockade, which by this time was being applied even to food-stuffs. The Germans now had recourse to a new weapon of destruction, the submarine. On February 4, 1915 the German Admiralty proclaimed that the waters surrounding the British Isles would, after the lapse of a fortnight, be considered a "war zone" wherein enemy merchant vessels would be destroyed without precautions for the safety of persons on board, and even neutral vessels could not be guaranteed safety in view of the use of neutral flags by British ships. The reply of the American Government to this notification,

worked out entirely by Lansing and Wilson, was a protest, sent on February 10, condemning the announced measures as contrary to recognized rules of naval warfare, declaring that the German Government would be held to a "strict accountability" for any loss of American lives or ships incurred under them, and warning it that the American Government would "take any steps it might be necessary to take to safeguard American lives and property and to secure to American citizens the full enjoyment of their acknowledged rights on the high seas."[41]

This was far stronger language than any deleted from the anxiously edited communications to Great Britain of the foregoing autumn. Yet Bryan signed it in the hope that the menace conveyed might be averted by some sort of compromise. An attempt in this direction was indeed made at the same time in the form of a protest to Great Britain against the misuse of the American flag.[42] This was, however, an inadequate and futile gesture; and Bryan, Lansing, and Wilson set about to find more effective means of dealing with the perilous situation. At last they produced the proposals cabled to London and Berlin on February 20 for restriction of the laying of mines and of attacks by submarines on merchant vessels in return for restriction of the use of neutral flags by ships of belligerents, and for the free transportation of food-stuffs to Germany, subject to arrangements under American supervision guaranteeing civilian destination.[43] The German Government agreed to the proposals upon conditions, chief among them the requirement of free access for the raw materials of industry, the lack of which imposed almost as great privations on the

people as the shortage of food.[44] The British Government replied by a long indictment of Germany's conduct of the war and an argument upholding its right to cut off German food-supplies.[45]

There was, in fact, no disposition towards a compromise on the part of the British, who had no interest in reducing America's difficulties with Germany. Ambassador Gerard twice suggested bringing to bear the most effective means of making them more amenable—namely, the threat of an embargo on munitions—but Bryan merely cabled in reply: "Department regrets it cannot accept suggestion."[46] With well-founded confidence that they had nothing of the kind to fear, the Allies even hastened to make of Germany's counter-stroke an occasion for further and more stringent measures against what was left of German trade. On March 1 the British and French Governments announced their intention "to prevent commodities of any kind from reaching or leaving Germany." It was easy enough for the lawyers of the Department of State to point out the inconsistency, under previously recognized rules, of the measures for putting this intention into effect.[47] But no warning was given of steps to be taken to enforce respect of these rules, such as had been addressed to Germany. On the contrary, while officially maintaining the illegality of the British orders-in-council, the Department of State lent itself to the negotiation of "unofficial" arrangements making exceptions to the prohibition against imports from Germany in the case of goods purchased before certain dates and of certain commodities, such as drugs and sugar-beet seed, not at the time produced in the United States.[48]

Meanwhile the situation with respect to Germany was developing ominously as reports came in of the drowning of an American passenger on a British steamer and of attacks on American ships. A sharp difference of opinion arose between the President and the Secretary of State as to the course that should be taken. In the ensuing debate Bryan developed a point of view and a program of policy intended to avoid the threatening conflict with Germany as that with England had been avoided. He maintained that the American Government should recognize the German measures, while illegal in themselves, as retaliation for acts of Germany's enemies which were equally illegal, and that, having accommodated itself to one set of violations of American rights, it was bound to seek accommodation with the other. He argued that the "strict accountability" demanded of Germany in the note of February 10 should not be interpreted as immediate accountability, but the final reckoning should be deferred, as was in effect being done with England. He even advocated that disputes should be handled in the spirit of his conciliation treaties, regardless of Germany's failure to conclude one. He proposed that the Government advise American citizens to avoid the danger to their lives arising out of Germany's retaliatory warfare on British shipping, as it had informally assisted American shippers in avoiding interference with their property by British measures for stopping German trade. He urged that representations to one belligerent should be measured by those to the other and that demands upon Germany to conform to American views of neutral rights should be accompanied by equally urgent ones upon Great Britain. And he reiterated his appeals for positive

action in the effort to bring to an end the war into which America was thus being drawn.[49]

The first premiss of Bryan's argument, that neutral rights of travel are in principle no more sacred than rights of trade, could claim validity only from the point of view of forgoing them. The weakness of his position, consequent upon the fatal flaw in Germany's policy of retaliation with which he sought accommodation, was that, if neutrals insisted in practice upon exercising those rights, the loss of life resulting from violation of the one could not be calmly considered on the same footing as the loss of property resulting from violation of the other. His further argument, that the destruction of hundreds of the lives of Americans who persisted in availing themselves of the asserted right did not warrant the sacrifice of thousands more in battle on the side of other powers fighting for objects not fully revealed, which could not fail to overshadow the issue America sought to vindicate, was open to all-sufficing condemnation as pacifist.

The President resisted admitting any limitation of the right of secure travel, but Bryan's insistence was sufficient to defer any communication to Germany until news arrived of the torpedoing of the *Lusitania* on May 7, 1915, with an appalling toll of American and other lives. As horrified by the probable consequences as by the act itself, Bryan fixed at once upon the point that the ship's cargo consisted almost entirely of contraband, including a large consignment of rifle cartridges. In a letter of the 9th to the President he advocated a prohibition against the carrying of passengers on ships laden with contraband, arguing: "Germany has a right to pre-

vent contraband going to the Allies, and a ship carrying contraband should not rely upon passengers to protect her from attack."[50] But Wilson was now working in seclusion on a note embodying drafts previously considered, which he laid before the Cabinet on May 11.[51] Bryan objected that it would mean war, and the President agreed to study his project further. Next day, however, the Secretary, "with a heavy heart," approved a revised version, which was cabled to Ambassador Gerard on the 13th. It demanded that the German Government "disavow the acts" of the offending submarine commanders, "make reparation" therefor, and "take immediate steps to prevent the recurrence" of such acts. A preceding paragraph made it clear that the American Government considered that the recurrence of intolerable outrages could be prevented only by the cessation of the use of submarines against merchant ships.[52]

Bryan assented to the dispatch of this document with the understanding that its immediate effect upon relations with Germany should be counterbalanced by one or more of certain accompanying actions: (1) a statement that the settlement of disputed issues would be deferred in accordance with the principle of the conciliation treaties, (2) a prohibition or warning against travel on belligerent ships carrying contraband, (3) an immediate note to Great Britain asking satisfaction in the matter of interference with American trade. On one point after another he was disappointed. The President, who, before the note was sent, had agreed to issue a statement postponing the reckoning, withdrew his approval when the time for issuing it arrived.[53] On the 14th he decided against any form of notice to American passengers.[54] The

communication to England, actually drafted by Lansing, was held up to await the outcome of certain negotiations being carried on by Colonel House.

The difficulties over British treatment of American cargoes had been referred by the President, before the *Lusitania* case came up, to his trusted personal agent, who had just returned to London after a tour of the Continent in behalf of a vague scheme for a peace based on "freedom of the seas"—the exemption of private property from capture at sea.[55] Now, on May 19, House suddenly cabled that England would be prepared to abandon the food blockade if Germany would cease submarine warfare on merchant vessels. Although Germany had found a proposal in these terms unsatisfactory earlier in the year, it was renewed and again met by the demand for raw materials as well as food, which the Allies declined to allow.[56] This interlude occupied some ten days, during which consideration of the note to Great Britain was postponed.

In the mean time Bryan had betrayed his agitation in an interview with the Austrian ambassador, Dumba, on May 17, which seriously embarrassed the Administration. According to his own account, verified by Dumba, he had endeavoured in this conversation to maintain strictly the official point of view that the demands made on Germany were justified by the gravity of the case and could be subjected to no conditions, that no comparison could be drawn between Germany's offences and those charged against Great Britain, and that no connexion could be admitted between the two controversies. But he had allowed his perception of the reality of that connexion and his belief that Americans should keep out of

the way of retaliatory measures to appear by admitting to Dumba the propriety of suggestions along such lines in the German Government's reply. When reports arrived that his words had been transmitted to Berlin in the form of a statement that the note of May 13 was not meant in earnest, much correspondence was required to clear up the exaggerated interpretation.[57]

These efforts did not prevent the German Government from making, on May 28, a reply that, instead of meeting the American demands, attempted to justify the sinking of the *Lusitania*.[58] The President thereupon produced another note, dismissing the German arguments as irrelevant, stressing the considerations of humanity involved, and categorically renewing the previous representations and demands, which he laid before the Cabinet on June 1. When Bryan inquired about the postponed note to Great Britain, Wilson curtly replied that it would be most untimely, thereby dismissing the Secretary's last hope of counterbalancing measures. But upon Bryan's intimation that he could not retain office if the action against Germany were taken in this naked form, the President deferred his final decision.[59]

For a week Bryan wrestled with Wilson in letters and interviews, attempting to extort his consent to some of the accompanying actions he had advocated from the first, but he had no new arguments to offer and Wilson was now proof against his old ones. On June 4, following another inconclusive Cabinet meeting, he announced that he could not sign the note without some mitigation of its effect.[60] After an exhausting conversation on the 7th, he sent a letter offering his resignation, which was

promptly though regretfully accepted.[61] The note to Germany, as matters stood, he declared, was one "in which I cannot join without violating what I deem to be an obligation to my country, and the issue involved is of such moment that to remain a member of the Cabinet would be as unfair to you as it would be to the cause which is nearest my heart, namely, the prevention of war."

The note, which went out on June 9, 1915, over the signature of Lansing, did not bring about immediately the result Bryan feared, but it was only delayed. Germany might for some time manage after a fashion to accommodate the submarine warfare to restraints imposed by America; but, unless either corresponding limitations were secured upon Great Britain's conduct of the blockade, or an acceptable peace could be brought about, that result must, in the long run, fatally follow. While the policies advocated by Bryan were by no means free from shortcomings, they had at least offered some hope of averting it.

CHAPTER V

LAST YEARS

Following his retirement from office Bryan rapidly faded out of the picture so far as influence upon foreign policy was concerned. The failure of the consequences of the note of June 9, 1915 to develop as he feared rendered his resignation an ineffective gesture. Throughout the next year he continued a sporadic criticism of the Administration's policies, pleading against drastic action in the *Sussex* crisis, of April 1916, opposing the preparedness campaign, and objecting to certain features of the program of the League to Enforce Peace. But the lifetime habit of party regularity gradually reasserted its sway over him and he supported Wilson's re-election in 1916. This return to conformity was facilitated by the emphasis laid in the campaign upon the slogan "He kept us out of war" and by the President's renewed activity afterwards in behalf of peace, largely along lines indicated by Bryan two years before. In the final crisis of 1917 he made some attempts to throw his influence against war as an outcome, but vied with the most fervent in patriotic loyalty once it was actually declared. At its close he favoured ratification of the treaty, but disagreed with Wilson's uncompromising refusal of reservations.

To the last Bryan remained an important political figure, although less a power in the Democratic party, concentrating his energies on the issues of prohibition

and woman suffrage, over which the parties declined to divide. Then towards the end he enlisted in another cause, an outgrowth of the religious interests to which he had always devoted himself as far as political activities permitted; this was the curbing of the spread of belief in the evolutionary hypothesis of man's origin, to which he attributed loss of religious faith and moral decline among the youth of the country. He favoured legislative measures against the propagation of such ideas in the public schools, though not their enforcement by penalties. With misgivings on the latter score, he allowed himself to be enlisted as counsel for the state of Tennessee in its prosecution of the young teacher Scopes for violation of its statute. The fervour he displayed in defending the principle upon which the statute was based undoubtedly contributed to bring on his death from heart-failure, on July 26, 1925, at Winchester, Tennessee, near Dayton, the scene of the trial.

ROBERT LANSING

SECRETARY OF STATE

JUNE 23, 1915, TO FEBRUARY 13, 1920

(*ad interim*, JUNE 9, 1915, TO JUNE 22, 1915)

BY

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ROBERT LANSING

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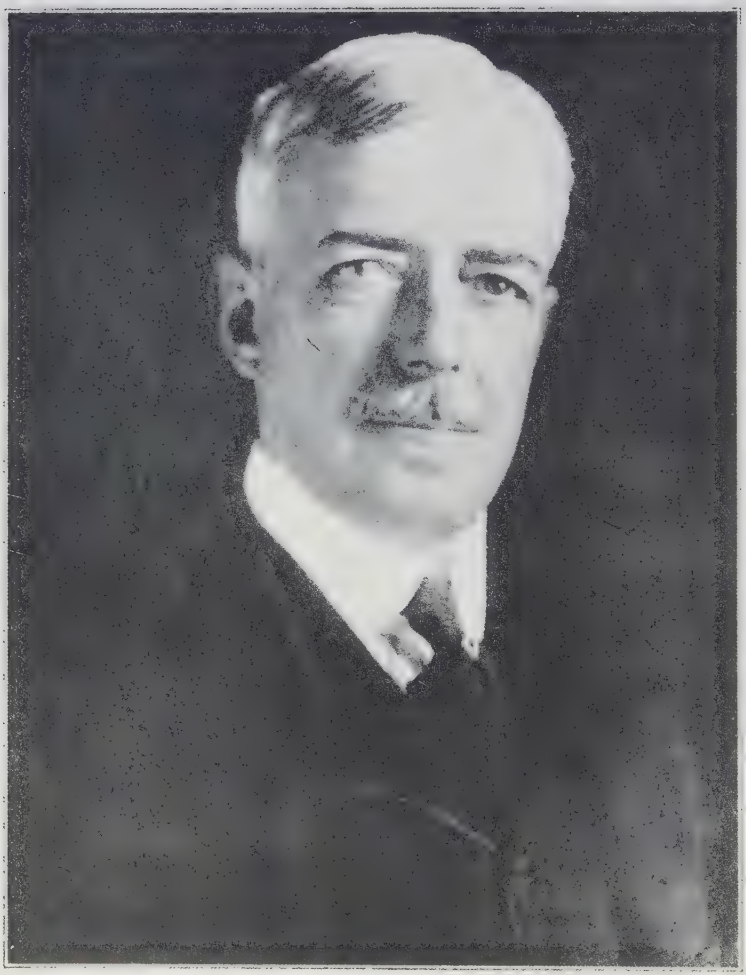

Robert Lansing

CHAPTER I

THE NEW SECRETARY

ON June 8, 1915 William Jennings Bryan resigned his office of Secretary of State in President Wilson's Cabinet. On the same day Robert Lansing, counsellor for the Department of State since April 1, 1914, was named Secretary of State *ad interim*, and on June 23, 1915 he was appointed Secretary of State.

The new Secretary was then in his fifty-first year. For nearly half his life he had been actively engaged in the practice of international law. Born on October 17, 1864, at Watertown, New York, where his father, John Lansing, was a prominent lawyer, he had been destined from early life for a legal career. After his graduation from Amherst College, in 1886, he read law in his father's office, was admitted to the bar in 1889, and became the junior partner of the firm of Lansing and Lansing at Watertown, of which he remained a member until his father's death, in 1907.

The turning-point in Robert Lansing's career was his marriage, on January 15, 1890, to Eleanor Foster, daughter of the distinguished diplomat John W. Foster, Secretary of State during the closing year of Benjamin Harrison's Presidency (1892–1893). By the marriage and the resulting association with Foster a new channel

was opened for the young lawyer's talents. In 1892 he was appointed associate counsel for the United States in the fur-seal arbitration, and from that year to 1914 it is said that he represented the United States in more international arbitrations than any other American lawyer. He was counsel for the United States before the Bering Sea claims commission, 1896–1897; the Alaskan boundary tribunal, 1903; the North Atlantic coast-fisheries arbitration at The Hague, 1908–1910; the British and American claims arbitration, 1911. During 1913–1914 he was agent of the United States before the last-named body. He also represented the United States as technical delegate to the fur-seal conference in Washington in 1911. During the same period he represented private interests in several international cases and acted for several years as counsel for the Mexican and Chinese legations in Washington.[1] In 1906 he became one of the founders of the American Society of International Law and a member of its executive committee, and in the following year took a prominent part in the establishment of the *American Journal of International Law*, of which he became an editor.

The year and a quarter during which Mr. Lansing served as counsellor for the Department of State gave him an excellent opportunity to become familiar with the working of the Department and with the many problems with which it had to deal. Upon the counsellor, as second in command—the position corresponded to that now held by the Under-secretary—fell the brunt of all the technical work. When Lansing took the oath of office (April 1, 1914), the country was in the midst of an imbroglio with Mexico. Four months later Europe went

to war, and the labours and responsibilities of the State Department became enormous. "It is my duty," Mr. Lansing told the Amherst alumni in February 1915, "to deal with the questions of international law and usage which are arising every day in our relations with other countries. These questions are of absorbing interest and many of them are extremely complex, because this war in its magnitude and methods is different from all the wars which have gone before."[2] In this modest statement Mr. Lansing assuredly did not overstate his part. "Those who know the Department," said a writer in the *World's Work* for August 1915, "know that Mr. Lansing has been carrying it since August, 1914."

The story of American diplomacy during those critical months belongs to the preceding sketch of Secretary Bryan, and it is not possible here to do more than mention a few of the problems that the State Department had to meet. These must be mentioned, because to a large extent the handling of them devolved upon Mr. Lansing as counsellor. Among the most serious were the refusal of the British Government to accept the Declaration of London as a code for war at sea; the extension of the contraband lists by the British; British interference with neutral vessels bound to or from neutral ports; use of the American flag by British vessels as a protection against submarine attack; the British blockade of Germany (March 11, 1915); the German proclamation (February 4, 1915) of a war zone in waters surrounding the British Isles; and, most critical of all, the sinking of the *Lusitania* by a German submarine, on May 7, 1915.

At no turn of these or other questions did the American

Government allow an infringement of its rights or the rights of neutrals in general, or a departure from recognized principles of international law, to pass unchallenged. Whether England or Germany was the offender, protest followed promptly upon provocation. While unready to threaten extreme measures in defence of its rights, the United States was building up a perfect case upon which it might claim damages from both sides when the war should end. No less firm was the stand taken in regard to the positive rights of the United States as a neutral. When German sympathizers in the United States charged the Government with favouring the Allied cause, and in particular complained that American munitions were freely sold to England and France, whereas the Central Powers were unable to reach our markets, Lansing drafted a sweeping and convincing reply, demonstrating that the Government of the United States had shown no favouritism to either side, that it had acquiesced in no illegal practice prejudicial to its own rights, and that in allowing arms and ammunition to be sold to those belligerents who were able to come and buy, it was acting not only in accord with recognized principles of international law, but also with the practice of Germany and Austria in wars in which they had been neutral.[3]

So long as belligerent activities injured American property-rights only, the Government's policy was, through protests, to pave the way for the recovery of damages. But when Germany, by her proclamation of February 4, 1915, threatened to sink without warning enemy merchant-vessels in the "war zone" about the British Isles and intimated that it might be impossible to save even

neutral ships from a similar fate, she shifted the question from one of property to one of human life. American citizens had an undeniable right to sail the high seas in safety, whether on the merchant ships of neutrals or on those of belligerents. How far would the Government go in protecting them in that right? The American reply to the German communication warned the German Government that for any destruction of an American ship or the lives of American citizens on the high seas, the United States would hold the German Government to "a strict accountability."[4]

Within less than six weeks came a test of what "a strict accountability" meant. On March 28, 1915 an American citizen was drowned when a German submarine torpedoed the British steamer *Falaba*. Other incidents of a like nature followed, culminating, on May 7, 1915, in the sinking of the *Lusitania*, with the loss of one hundred and fourteen American lives.

The first American note of protest at the sinking of the *Lusitania*, dated May 13, 1915, is stated to have been "the President's message in thought and word, corrected and shortened by the Counselor [Lansing] and signed by the then Secretary of State [Bryan]."[5] Its surprising quality was its mildness. It took the ground that the recent submarine attacks must have been unauthorized and expressed the expectation that the German Government would disavow the acts complained of, make reparation so far as practicable, and take immediate steps to prevent the recurrence of such accidents.[6]

The German reply of May 28, 1915 was in the main a cool attempt to justify the *Lusitania* sinking on the ground that the vessel was in reality a British auxiliary cruiser,

that she "undoubtedly" carried mounted guns, as well as Canadian troops and 5,400 cases of ammunition "destined for the destruction of brave German soldiers."[7]

Disagreement as to the next step in the controversy with Germany precipitated the resignation of Bryan, who since the announcement of the submarine blockade had followed the President with growing reluctance, and led to the appointment of Lansing as Secretary of State. Former Secretary Houston has left a record of the Cabinet meeting of June 1, 1915. The President "presented his draft of his reply to the German note on the sinking of the *Lusitania*." It had the ring of an ultimatum. In the discussion which followed, Bryan insisted that a strong note be sent to England at the same time, "protesting against her illegal action in holding up our exports, particularly our cotton." Other members objected to "the proposal that our material interests be considered at the same moment when we were discussing a grave matter involving human lives." Bryan lost his temper and accused his colleagues of being pro-Ally, for which he was called to order by the President.[8]

As the meeting disbanded, Houston remarked to two of his colleagues that Bryan was about ready to "fly the coop." Bryan's resignation was announced on June 8, a week later. Just when he told the President of his intention is not known, but on Sunday, June 6, the President sent for Houston and McAdoo and asked them "to think of a man for Bryan's successor." Wilson remarked that "he had canvassed the field and could not hit upon a satisfactory outside man." He mentioned Colonel Edward M. House as a good man for the place, but eliminated him from consideration on the ground of delicate

health and also because his appointment would give Texas an undue preponderance in the Cabinet. Then the conversation turned to Lansing. Wilson, as reported by Houston, "remarked that Lansing would not do, that he was not a big enough man, did not have enough imagination, and would not sufficiently vigorously combat or question his [Wilson's] views, and that he was lacking in initiative."[9]

The President's remark that Lansing "would not sufficiently vigorously combat or question his views" is interesting in the light of later events. Why Wilson, feeling as appears in this conversation, decided after all to appoint Lansing has not been revealed. It was stated editorially in the *Nation* that some of Wilson's advisers had urged him to select a Democrat of large political influence who at the same time was skilled in diplomacy. Failing, perhaps, to find that combination of qualities in any of his followers, Wilson gave the preference to diplomatic experience over political influence.

While Bryan's resignation had caused a profound sensation in the country, the naming of Lansing to succeed him was received without excitement. The country knew him as the Secretary *ad interim* who had signed the second *Lusitania* note, and seemingly regarded his appointment to the secretaryship as a matter of routine. Some highly favourable comments were elicited. The New York *Times* spoke of "the competent and unpretentious Lansing" as giving new strength and dignity to the Cabinet. "In every way a sound and excellent appointment" was the comment of another newspaper. "President Wilson's decision to appoint Robert Lansing Secretary of State seems as natural as it is praiseworthy,"

the *Nation* declared. "Mr. Lansing's competence is unquestioned; he has the advantage of having all the threads of pending diplomatic negotiations already in his hand, so that there will be no break or pause in the policy of the Department; and the feeling is general that the new Secretary has earned his position fairly and will adorn it."[10]

The *Nation* added, however, that "every President has to be, in the big matters, his own Secretary of State, and Mr. Wilson will undoubtedly continue to determine for himself the main features of our foreign policy."[11] That this prediction was generally correct will appear as the story progresses. "Since Wilson decides *everything*," wrote the German ambassador on one occasion, "any interview with Lansing is a mere matter of form."[12] When we consider, in addition, that the most delicate and important negotiations were as a rule conducted through the President's confidential friend Colonel House, we see that the Secretary of State was but one of the instruments through which Wilson directed his foreign policy.

CHAPTER II

LUSITANIA AND *ARABIC*

IT was on June 23, 1915, as previously stated, that Lansing was appointed to the office whose duties he had for two weeks been performing as Secretary *ad interim*. A few days later (on July 11) he made a note of certain ideas or aims that he purposed to take as guides in his conduct of the office. Several of these aims related to policy towards Latin America and will be referred to later in that connexion. More fundamental were the beliefs expressed at this time that there existed a deep-seated opposition between the German system and democracy, that America's task was to save democracy, and that she must eventually take part in the war if that course was necessary to prevent a German victory. It is thus apparent that Lansing held, in July 1915, the views to which the President and the country came a year and a half later. Whether he played an important part in bringing Wilson to these views would be very hard to say.

As to the pending controversy over the submarine, Lansing saw in this a possible cause for a break with Germany in the future, but he believed that popular sentiment was not yet ready for the break to come and therefore favoured at least a temporary settlement of that issue.

The second *Lusitania* note, which caused Bryan's resignation, had been sent on June 9. It is said to have

been the joint work of the President and Lansing, although Secretary Houston gives the impression that his own suggestions, offered in the Cabinet meeting of June 1, were responsible for much of it.[13] However that may be, the note was signed by Robert Lansing, Secretary of State *ad interim*.

The note denied, on the basis of official information, the German charge that the *Lusitania* had been a British auxiliary cruiser, declared that the United States was "contending for nothing less high and sacred than the rights of humanity," and closed with the following paragraph:

> "The Government of the United States can not admit that the proclamation of a war zone from which neutral ships have been warned to keep away may be made to operate as in any degree an abbreviation of the rights either of American shipmasters or of American citizens bound on lawful errands as passengers on merchant ships of belligerent nationality. It does not understand the Imperial German Government to question those rights. It understands it, also, to accept as established beyond question the principle that the lives of noncombatants can not lawfully or rightfully be put in jeopardy by the capture or destruction of an unresisting merchantman, and to recognize the obligation to take sufficient precaution to ascertain whether a suspected merchantman is in fact of belligerent nationality or is in fact carrying contraband of war under a neutral flag. The Government of the United States therefore deems it reasonable to expect that the Imperial German Government will adopt the measures

necessary to put these principles into practice in respect of the safeguarding of American lives and American ships, and asks for assurances that this will be done."[14]

The German reply,[15] which was not handed to Ambassador Gerard until July 8, began with a tribute to the principles of humanity and in particular of the freedom of the seas, for which, it was declared, Germany and the United States had hitherto jointly contended, and declared that if in the existing war "the principles which should be the ideal of the future have been traversed more and more the longer its duration, the German Government has no guilt therein." For any violation of these principles the responsibility must rest upon England, which had declared the North Sea a war area, had intercepted legitimate neutral trade with Germany, and had aimed "at the destruction not so much of the armed forces as the life of the German nation, repudiating in so doing all the rules of international law and disregarding all the rights of neutrals. . . . Thus Germany was driven to submarine war on trade. . . . We have been obliged to adopt submarine warfare to meet the declared intentions of our enemies and the method of warfare adopted by them in contravention of international law. . . . The case of the *Lusitania* shows with horrible clearness to what jeopardizing of human lives the manner of conducting war employed by our adversaries leads."

Thus England, not Germany, was to bear responsibility for the *Lusitania* sinking. Additional argument surged that since (it was alleged) the British Government had ordered British merchant-vessels to ram submarines, the

U-boat which sank the *Lusitania* could not have attempted visit and search without courting destruction, and that "if the *Lusitania* had been spared thousands of cases of ammunition would have been sent to Germany's enemies and thereby thousands of German mothers and children robbed of their supporters."

The whole note thus far was an attempted justification of the sinking of the *Lusitania*. There was neither hint of apology nor promise of reparation. But it was not devoid of conciliatory proposals. With a reference to the ancient friendship between the two peoples, the German Government repeated its assurances "that American ships will not be hindered in the prosecution of legitimate shipping, and the lives of American citizens on neutral vessels shall not be placed in jeopardy." To assure the safety of American passenger-steamers, submarine commanders would be instructed to permit their passage "when made recognizable by special markings and notified a reasonable time in advance." The German Government "confidently hoped"—it is not apparent whether this was a necessary condition or not—that the United States Government would guarantee that such vessels carried no contraband. To assure adequate facilities for passenger traffic, it was suggested that a reasonable number of steamers of other neutral nations be installed in the passenger service under the American flag under the same conditions as American steamers; and should this prove impossible, four enemy passenger-steamers might be placed under the American flag and these might enjoy immunity from attack under the above conditions—presumably a guarantee that they carried no contraband.

In this way, it was hoped, adequate facilities might be

provided for the travel of American citizens, without the necessity of their taking passage on ships carrying an enemy flag. "In particular the Imperial Government is unable to admit that American citizens can protect an enemy ship through the mere fact of their presence on board."

It may be that this proposal seemed to the German mind genuinely reasonable and conciliatory. The American note of June 9 had stressed the safety of American citizens as this Government's chief concern. A plan was now offered by which American citizens might travel to Europe and return in safety upon an adequate number of vessels flying the American flag. On the other hand, belligerent merchant-vessels were to be treated frankly as bearing a military character and were to be subject to attack and destruction by submarines. This would be contrary to all practice and precedent in international law, but unprecedented also was the vital military value of Allied shipping, and unprecedented were the problems arising from the use of the submarine—a military engine to which old rules could with difficulty be applied. Furthermore, it was true enough that England had gone beyond precedent in her manner of blockading Germany; and Sir Edward Grey had argued (February 10, 1915) that in matters of food-supply no distinction could longer be drawn between the German Army and the German civil population. Why, then, should Germany continue to recognize a distinction between fighting ships and ships that carried essential war-materials?

Germany's tremendous disadvantage lay in the fact that where international law barred her way, she could cross the barrier only at the cost of non-combatant lives,

whereas those violations that were essential to the success of England's program involved inroads upon property rights only; and the United States, despite her great reputation for materialism, was vastly more aroused at the illegal taking of life than at illegal interference with property.

However reasonable the German proposal may have appeared in Berlin, it found no favour in Washington. The reply, dated July 21, 1915,[16] bears internal evidence of being the joint work of Wilson and Lansing.

The German suggestion was brushed aside in a short paragraph near the end of the note, upon the ground that the designation of certain ships as immune from attack "would, by implication, subject other vessels to illegal attack and would be a curtailment and therefore an abandonment of the principles for which this Government contends and which in times of calmer counsels every nation would concede as of course."

The German defence of the *Lusitania* sinking upon the ground of retaliation was in itself an admission, Mr. Lansing argued, that the act was illegal; and "illegal and inhuman acts, however justifiable they may be thought to be against an enemy who is believed to have acted in contravention of law and humanity, are manifestly indefensible when they deprive neutrals of their acknowledged rights, particularly when they violate the right to life itself." While some allowances might be made for changed conditions and instrumentalities of warfare, the United States could not "consent to abate any essential or fundamental right of its people because of a mere alteration of circumstance. The rights of neutrals in time of war are based upon principle, not upon expediency,

and the principles are immutable. It is the duty and obligation of belligerents to find a way to adapt new circumstances to them."

The events of the past two months, it was asserted, had shown that the submarine might be used in accord with the recognized laws of war. In view of this fact, and of the German Government's implied confession of illegality, the Government of the United States expected the German Government to disavow the act of the officer who sank the *Lusitania* and to offer reparation for the American lives lost.

The note closed with a warning that was practically an ultimatum:

> "In the meantime the very value which this Government sets upon the long and unbroken friendship between the people and Government of the United States and the people and Government of the German nation impels it to press very solemnly upon the Imperial German Government the necessity for a scrupulous observance of neutral rights in this critical matter. Friendship itself prompts it to say to the Imperial Government that repetition by the commanders of German naval vessels of acts in contravention of those rights must be regarded by the Government of the United States, when they affect American citizens, as deliberately unfriendly."

In response to this statement of the American position the German ambassador was authorized to give assurance that: "Liners will not be sunk by our submarines without warning and without safety of the lives of

non-combatants, provided that the liners do not try to escape or offer resistance."[17]

This assurance, however, was not presented until September 1, 1915. Meanwhile, on August 19, the White Star liner *Arabic*, westward bound from Liverpool to New York, was torpedoed without warning off the Irish coast. She sank in eleven minutes. Among those lost were two American citizens. Ambassador Bernstorff hastened to present a note from his Government asking the United States to take no definite stand until it had heard both sides.[18] The submarine commander asserted that the torpedo was fired under the conviction that the *Arabic* was attempting to ram the submarine, but the affidavits from officers and passengers of the *Arabic* were so thoroughly agreed that the submarine had not been even seen from the liner that eventually the German Government gave way. In a note of October 5, 1915 Ambassador Bernstorff reported to the Secretary of State that orders to commanders of German submarines had been made so stringent "that the recurrence of incidents similar to the *Arabic* case is considered out of the question." In regard to the *Arabic* sinking, the German Government, said Bernstorff, "regrets and disavows this act," and "is prepared to pay an indemnity for the American lives which, to its deep regret, have been lost on the *Arabic*."[19]

The American Government had won a temporary victory in its efforts to bind the submarine by the old rules of naval warfare. It had not, however, secured a direct disavowal of the sinking of the *Lusitania*. Negotiations over the form of such a disavowal were protracted into the following winter. Lansing insisted that Germany

must admit the illegality of the sinking. This Germany was unwilling to do, but at length consented to a note expressing profound regret that citizens of the United States had lost their lives, recognizing its liability for those losses, and agreeing to make reparation therefor. This formula was embodied in a note from Bernstorff to the Secretary of State, February 16, 1916,[20] but as it came almost at the same time as the new German announcement that armed merchantmen would be treated as ships of war,[21] Lansing refused to accept it as satisfactory, and the *Lusitania* case remained unsettled until the close of the war.

CHAPTER III

PLAIN TALK TO JOHN BULL

THE closing of the first period of controversy with Germany over submarine warfare was followed by a reassertion of the claims of the United States as against various features of the British policy of commerce-restriction.

Since the announcement of the British blockade policy in the famous order-in-council of March 11, 1915 the Department of State had confined itself for the most part to protests and complaints about treatment of individual ships and cargoes.[22] It was known, however, that the Secretary had in preparation a note that should set forth the American contentions in a thorough-going way. Its arrival at London was looked forward to with apprehension by Ambassador Page, Lord Bryce, Lord Northcliffe, and other devotees of Anglo-American friendship.[23]

The note in question,[24] dated October 21, 1915, described by Page, in a letter to Colonel House, as "an uncourteous monster of 35 heads and 3 appendices,"[25] covers, without the appendices, thirteen large pages in the *Diplomatic Correspondence*. It made protest against three British practices—the carrying of neutral vessels into British ports for search, the blockade, and the British insistence that neutral owners must depend, in the first instance, upon British prize courts and not upon diplomatic negotiation for redress.

In previous wars, Lansing showed, the search of neutral vessels for contraband, evidence of breach of blockade, or other irregularity had always been conducted on the high seas. The new British practice of taking such vessels into British ports for search not only took many vessels far from their course and resulted in much delay, but also led to the detention of vessels because of evidence from external sources, whereas, contended Lansing, previous theory and practice justified the detention of a ship only upon sufficient evidence found in the ship's cargo or papers.

As to the blockade, enforced by Great Britain since the previous March, Lansing argued that it was illegal in three respects. A blockade, according to well-recognized principles of international law, must be effective in order to be binding, must be enforced impartially against the ships of all nations, and must not interfere with trade to or from neutral ports. The British blockade fell short of all three requirements. It was not effective, since it could not close the Baltic ports of Germany; it was not enforced impartially, since Danish, Swedish, and Norwegian vessels traded at will with those Baltic ports, while other neutrals from the Atlantic were blocked off; and it obviously interfered with the trade of neutral ports, since goods of German destination, ownership, or origin were not allowed to proceed to or from ports of nations contiguous with Germany.

Finally, the note contended that owners of neutral ships or cargoes could not expect satisfactory redress from British prize courts, since these courts were bound to enforce the very orders-in-council which the United States held to be contrary to international law.

Walter Hines Page, to whom as American ambassador fell the duty of presenting this note to the British Foreign Office, was much aggrieved, not so much at its substance as at its unfriendly and even "uncourteous" tone.

"There is not," he wrote Colonel House, "a courteous word, nor a friendly phrase, nor a kindly turn in it, not an allusion even to an old acquaintance, to say nothing of an old friendship. . . . There is nothing in its tone to show that it came from an American to an Englishman: it might have been from a Hottentot to a Fiji-Islander." And Page quoted "a friendly member of Parliament," who remarked: "The President himself dealt with Germany. Even in his severity he paid the Germans the compliment of a most courteous tone in his Note. But in dealing with us he seems to have called in the lawyers of German importers and Chicago pork-packers. I miss the high Presidential courtesy that we had come to expect from Mr. Wilson."[26]

To one who compares the concluding paragraphs of the Lansing note to Great Britain with those of the *Lusitania* notes to Germany, with their expressions of faith in Germany's good intentions and references to ancient friendships, the Englishman's criticism seems justified. In summarizing the arguments outlined above, Secretary Lansing characterized the British methods of search as "without justification," the blockade as "ineffective, illegal, and indefensible," and the prize-court procedure as "inherently defective for the purpose."

"The United States," the note continued, "can not submit to the curtailment of its neutral rights by these measures, which are admittedly retaliatory, and there-

fore illegal, in conception and in nature, and intended to punish the enemies of Great Britain for alleged illegalities on their part. The United States might not be in a position to object to them if its interests and the interests of all neutrals were unaffected by them, but, being affected, it can not with complacence suffer further subordination of its rights and interests to the plea that the exceptional geographic position of the enemies of Great Britain require or justify oppressive and illegal practices."

There were other paragraphs that were phrased yet more in language appropriate to an ultimatum. Yet no thought of a break with England over the issues presented existed in the mind of either Wilson or Lansing. Lansing at this time was writing House: "In no event should we take a course that would seriously endanger our friendly relations with Great Britain, France, or Russia, for, as you say, our friendship with Germany is a matter of the past."[27] A hint of the reason for the strong language used is given in the final paragraph of the note itself, where it is stated that the United States, in championing the rights of neutrals, will exercise "always that impartiality which from the outbreak of the war it has sought to exercise in its relations with the warring nations." The nation was still neutral, and if it protested against violations of international law by one group of belligerents, it must not fail to protest against violations by the other. How could it expect a respectful hearing for its protests at Berlin if it failed to protest against equally illegal measures at London? Furthermore, powerful interests in the United States were demanding relief from the restrictions imposed by Great Britain, and these interests must be appeased by strong talk to the British Government.[28] Thus

the "uncourteous" tone of the Lansing note was in the main for home consumption. This aspect of the matter seemingly was never realized by Ambassador Page. Sir Edward Grey was better informed than he, for before the note was sent, Sir Cecil Spring-Rice, the British ambassador in Washington, had reported by telegraph the purport of a conversation with Colonel House, as follows:

> "You may expect pretty strong communication. Until popular opinion is convinced of necessity of taking sides (which it is not) Government must be impartial. Policy of pin-pricks against one or other party will only give people impression of prejudice and one-sidedness. What is non-essential can be arranged by give and take; what is essential can be referred under existing treaties to arbitral decision."[29]

Of the justice of Mr. Lansing's contentions our view will depend largely upon the degree to which we emphasize the importance of precedent as a guide in international law. The British practices of which complaint was made undoubtedly went beyond the mark set in previous conflicts, and in details plainly contravened the interpretation of international law generally accepted before 1914. Upon the ground of precedents many points of our protest were good.

But if we consider it reasonable that the details of international law must change with changing conditions, then it is not so clear that the American position was strong. In February 1915 Lansing had spoken to the Amherst alumni of his work as counsellor. After describing some of the perplexities and difficulties introduced into diplomacy by the adoption of new weapons and methods of warfare, he had stated:

"We have to abandon that time-honored refuge of jurists and diplomats, precedents, and lay hold of the bed-rock of principle. Diplomacy today is wrestling with novel problems, to which it must apply natural justice and practical common sense."[30]

A genuine application of this criterion would perhaps have yielded smaller ground of complaint against the practices of either group of belligerents. Sir Edward Grey's reply to the American complaint strikes the reader today as generally reasonable.[31] In regard to most of the practices complained of, the British Secretary was able to show either that there was direct precedent for them in the methods practised by the United States itself, or else that they were mere extensions of earlier methods designed to meet new conditions. The British position is well summed up in a portion of the third paragraph. To the complaint "that the despatch of goods to the enemy countries has been frustrated by methods which have not been employed by belligerent nations in the past," Sir Edward answered: "It would seem to be a fair reply to such a contention that new devices for despatching goods to the enemy must be met by new methods of applying the fundamental and acknowledged principle of the right to intercept such trade."

Another way of judging the strength of the American position is to compare the principles for which we contended as a neutral with the practices which we pursued as a belligerent. In the blockade of the Southern coast in the Civil War the United States had vastly stretched the rights of a belligerent as recognized up to that time. The doctrine of "continuous voyage" had then for the first

time been applied to blockade, when the United States asserted the right to seize cargoes on their way from Europe to Bermuda, on the ground that their ultimate destination was a blockaded port. This was playing fast and loose with international law as then understood. In their blockade of Germany the British made but one step in advance of our Civil War practice. We had held that goods on their way to a neutral port may be seized by a belligerent if it is shown that they are to be conveyed *by sea* from the neutral port to a blockaded port of the enemy. England added the point that they might also be seized if they were to be transported *by land* to the enemy whose coast was under blockade. This extension of the principle was essential if the blockade was to be of any value. To blockade German ports and leave entirely open Dutch or Danish ports having short and easy railroad-connexions with Germany would have been worse than useless.[32]

Again, if the American protest was based upon genuine principle, we should expect to find that when the United States entered the war, it brought about an alleviation of the burdens imposed on neutrals. That she followed such a policy has never been contended.[33]

The inconsistency of the American position is explained, however, if we assume, as has already been suggested, that the Lansing note was written in the main to satisfy anti-British interests in the United States and to maintain an impartial front towards both camps of belligerents. For this end it was essential that Lansing put up the strongest possible argument against the British practices. If, as has been stated in some quarters, the attitude of the United States was "needlessly obstructive, legalistic and technical," and based on the

"letter rather than the spirit of our rights,"[34] the excuse is perhaps to be found in this explanation.

As was generally predicted when the note was published, it had no pronounced effect on British policy. The only concession made by Sir Edward Grey in his reply was that when goods were held up on insufficient grounds and later released, the owners should not be liable for the expenses of the examination. As time went on, however, it was found possible in more and more cases, through allowing the inspection of vessels before sailing by agents of the British embassy in the United States, and in other ways, to give assurance beforehand that vessels would not be held for search, and thus they were saved delay and expense.[35] Otherwise British practices continued much as before. The Department of State could find satisfaction in having made its position clear, and thus having paved the way for claims for damages in the future.

CHAPTER IV

PRESIDENT WILSON OFFERS INTERVENTION

DESPITE the bickerings over the blockade in the fall and winter of 1915–1916 President Wilson was at this time contemplating intervention in the European war on the side of the Entente Allies. Apparently the plan originated in the fertile brain of Colonel Edward M. House, although it is not always possible from the House Papers to distinguish between the ideas that were original with him and those that were derived from Wilson's suggestions and reflected back by House in more concrete form. The plan may perhaps have had an auspicious eye upon the presidential contest to come in November 1916. At any rate, it took shape after a conversation between House and Wilson in September 1915, in which the President remarked that "he had never been sure that we ought not to take part in the conflict and, if it seemed evident that Germany and her militaristic ideas were to win, the obligation upon us was greater than ever."[36]

A few weeks after this conversation House laid his plan before the President. The United States should first sound the Allies to determine whether they were ready for peace upon terms of reason and justice and whether they were disposed to enter a peace conference in which such terms should be realized. If their response was favourable, the President should call such a conference.

The Allies, after a show of hesitation, should accept. If Germany also accepted, and a reasonable peace was agreed upon, including disarmament both military and naval and the establishment of a League of Nations, the great aim of House and Wilson would have been accomplished. If Germany declined the invitation or, after accepting it, refused to make a "reasonable" peace, then Wilson should lead the United States into the war to compel Germany to peace at the sword's point. Thus it appeared that, if the plan was carried through, Germany could not win and the Allies could not lose.

House got his plan endorsed by Wilson and Lansing and received undoubted encouragement from Sir Edward Grey, the British Foreign Secretary.[37] At the close of December 1915 he sailed for Europe and spent most of the next two months in conversations with leading statesmen in London, Paris, and Berlin. In the German capital he learned that Germany was not ready for peace upon any terms that would be acceptable to the Allies or President Wilson. In Paris, Briand and Cambon were noncommittal. In London, however, House, as he thought, made great progress with his plan, which, because of the German attitude, took the form of the second proposed alternative—American intervention on the side of the Allies. In long and intimate conversations with Grey, Asquith, Lloyd George, and others House promised that the United States would enter the war upon the terms named, and believed that the British statesmen were committed to the plan. At a signal that the Allies were ready, the President should issue an invitation to a peace conference. The terms of peace contemplated seem not to have been precisely defined, but are stated by

Professor Seymour to have embraced "complete restoration of Belgium and Serbia, return of Alsace-Lorraine to France, Constantinople for Russia, an independent Poland, cession of Italian-speaking regions by Austria to Italy, compensation for Germany outside of Europe, abolition of competitive armaments and guaranties against military aggression," the latter to take the form of a League of Nations.[38] It was known, or assumed, that Germany would not accept such terms. Upon her refusal the United States was to enter the war on the side of the Allies.

It was agreed that the best time for the peace call would be after the Allies had won some military successes on the western front. From a note in House's diary we see how great military events, involving hundreds of thousands of lives, were to turn upon the informal promise of the Texas "political colonel." "It is the intention," he noted, "to make a push in the west at the earliest possible date, so that the President's proposal may come as soon as possible. I feel the responsibility I have taken in this matter, for it is upon my assurance that the agreement will be carried out that they are preparing for this quick and powerful offensive."[39]

In reality, while individual members of the British Government appeared to accept House's plan, it is easy now to see that there was never any official acceptance of it. The letter from Sir Edward Grey, which House carried back to America, appears to have been nothing short of a polite refusal of the proposal.[40] How House could regard it as an acceptance it is impossible to see. The coolness of the Allies to a proposal that seemed so wholly favourable to them was probably the result of two factors.

On the one hand, there was doubt that President Wilson would actually throw the potential military power of the United States into the war—a doubt encouraged by Ambassador Walter H. Page, who regarded the President's pacifism as incurable. On the other hand, if American intervention was not impossible in the premisses, Allied statesmen must have preferred that it should come as a consequence of the submarine issue and so in a form that would not commit the Allies to any self-denying program of peace.

House returned to Washington early in March, not knowing his plan had been turned down. Throughout the remainder of the spring he awaited the call that never came—the expected message from Sir Edward Grey signifying that the Allies were ready for American intervention.

While House was abroad, in the early months of 1916, Secretary Lansing undertook to effect an understanding upon the rules of war at sea that he hoped would be satisfactory to both belligerents and at the same time alleviate the burdens of neutrals. Colonel House records an hour's conversation with the Secretary on October 2, 1915.

"Lansing," he wrote, "takes the ground that if we are to hold the Germans responsible for sinking ships without warning, we must also insist that merchantmen be unarmed. If a merchantman is armed, and we insist that submarines do not sink without warning, the advantage is all with the merchantman and against the submarine."[41]

Lansing did not pursue the idea at that time, but in January 1916, in a circular letter to the Allied embassies

in Washington, he suggested that a formula might be found which, on the one hand, would forbid submarines to attack vessels which did not attempt flight or resistance and would assure the safety of passengers and crews, while, on the other hand, by disarming all merchant vessels, it would make it possible for submarines to exercise rights of visit and search without danger of destruction. He argued that formerly merchant vessels had been permitted to carry guns for protection against pirates and privateers, but that, as both piracy and privateering had disappeared, "the placing of guns on merchantmen at the present day of submarine warfare can be explained only on the ground of a purpose to render merchantmen superior in force to submarines and to prevent warning and visit and search by them. Any armament, therefore, on a merchant vessel would seem to have the character of an offensive armament. . . ."[42]

He added that his Government was impressed with the argument that an armed merchantman should be treated by both neutrals and belligerents as an auxiliary cruiser and was "seriously considering instructing its officials accordingly."

Although Lansing's note had been made "informal and confidential," the substance of it was obtained and published by the press, on January 28. It caused much stir at home and abroad. In the Allied countries it was interpreted as a surrender to Germany, and Colonel House cabled that it was endangering the success of his peace mission. The German Government, instead of keeping quiet and reaping the moral benefit of an Allied refusal of the proposed compromise, took matters into its own hands and announced, February 8, 1916, that after Feb-

ruary 29 all armed enemy merchantmen would be treated as ships of war.[43] Probably the German Government expected the United States to acquiesce in this policy, which was in accord with the principles stated in the Lansing note. A considerable number of American newspapers did accept the German announcement as reasonable, and a resolution introduced in the House of Representatives by McLemore of Texas (paralleled by the Gore resolution in the Senate) proposed to warn Americans not to take passage on armed ships.

Wilson and Lansing were now placed in an uncomfortable position. Lansing had stated that his Government was impressed with the reasonableness of the argument that armed merchantmen should be treated as war-vessels. The German Government had promptly announced that it would so treat them, while the Allies were bitterly opposed to such a course. Should the United States follow the German lead, or should it retreat from the position taken in the Lansing note? Wilson decided upon the latter course. Probably neither he nor Lansing had contemplated adoption of the new sea-code unless the Allies acquiesced in advance. Now they were warned by Page and House of the serious effect such a measure would have on Allied opinion. In a letter to Senator Stone, chairman of the Senate Committee on Foreign Relations, Wilson declared he could not "consent to any abridgment of the right of American citizens in any respect." The McLemore resolution was tabled.

Thus the controversy over the use of submarines went on. The German announcement led Secretary Lansing to reject the proffered expression of regret over the loss of American lives on the *Lusitania*. The German

Government, it is true, stated through Ambassador Bernstorff that the promise given in the *Arabic* and *Lusitania* cases would be strictly adhered to, though it must be understood as applying only to unarmed merchantmen—a most ambiguous and unsatisfactory assurance.[44]

A new crisis arose when, on March 24, 1916, the *Sussex*, an unarmed French passenger-steamer, was sunk without warning in the English Channel. No American life was actually lost, but several citizens of the United States were seriously injured. It was a perfect case of breach of Germany's promise not to attack liners, and it was an unarmed liner, at that. The incident came as a complete surprise. Gerard had reported the "illness," followed by the resignation, of Admiral von Tirpitz, German Minister of Marine and advocate of unrestricted U-boat warfare, indicating the triumph of the moderate party in imperial councils,[45] and Ambassador Bernstorff had been more than usually conciliatory. Apparently the attack on the *Sussex*, with similar attacks at the same time on other ships, was without authorization from the responsible heads of the German Government. Nevertheless, the incidents had been allowed repeatedly to occur.

To House and to Lansing it seemed that now a break with Germany was inevitable, that further temporizing would destroy the influence of the President at home and in the Allied countries. Lansing wrote the President a letter in which he advised that Bernstorff be sent home and Gerard recalled. House came to Washington to advise the President in the same sense. Wilson was reluctant to take a step that might lead the United States into the war on this issue and so destroy its power to bargain with

the Allies for reasonable peace-terms. House, however, persuaded him that even if the nation entered the war on the submarine issue, Wilson would still be in a strong position for framing peace-terms. Wilson yielded to House and Lansing and resolved to send an ultimatum. Lansing prepared a note, described by House as "an exceedingly vigorous paper . . . well written and much to the point," recalling Gerard and notifying the German Government that Bernstorff would be given his passports.[46]

Lansing's note was discarded altogether by President Wilson, who himself drafted the note which was dispatched to Ambassador Gerard over Lansing's signature, on April 18, 1916.[47] It recited the outlines of the submarine controversy and the patience of the United States, under repeated provocations, stated the conclusion reached by the Government of the United States, that the use of submarines for the destruction of an enemy's commerce was "utterly incompatible with the principles of humanity, the long-established and incontrovertible rights of neutrals, and the sacred immunities of non-combatants," and concluded with a paragraph containing the ultimatum: "Unless the Imperial Government should now immediately declare and effect an abandonment of its present methods of submarine warfare against passenger and freight-carrying vessels, the Government of the United States can have no choice but to sever diplomatic relations with the German Empire altogether."

In a long reply, dated May 4, 1916, von Jagow for the German Foreign Office granted the substance of the American demand.[48] The German Government, he stated, was "prepared to do its utmost to confine the operations of

war for the rest of its duration to the fighting forces of the belligerents, thereby also insuring the freedom of the seas, as [*sic*] principle upon which the German Government believes, now as before, to be in agreement with the Government of the United States [*sic*]."

Moreover, the note continued, German naval forces had received the following orders: "In accordance with the general principles of visit and search and destruction of merchant vessels recognized by international law, such vessels, both within and without the area declared as naval war zone, shall not be sunk without warning and without saving human lives, unless these ships attempt to escape or offer resistance."

These paragraphs, embodying a genuine concession, were buried in the middle of a long note, most of which was taken up with complaints of the illegal conduct of the British Government and the failure of the United States to call England to account as harshly as it called Germany. The concluding paragraphs sought to make the German surrender conditional upon abandonment by Great Britain of her illegal practices and ended with the threat that if the United States should fail to compel England to alter her methods, "the German Government would then be facing a new situation, in which it must reserve [to] itself complete liberty of decision."

Lansing thought the note unsatisfactory because of its conditions and complaints; Colonel House, seeing the indubitable concession to Wilson's demands, thought it must be accepted, and House's view prevailed with the President.[49]

In a final note, drafted jointly by Lansing and the President, the United States accepted the new subma-

rine policy, if scrupulously adhered to, as removing the principal cause of friction between the two nations and at the same time repudiated the idea that the new policy could be "in any way contingent upon the course or result of diplomatic negotiations between the Government of the United States and any other belligerent Government. . . . Responsibility in such matters"—the words are Wilson's—"is single, not joint; absolute, not relative."[50]

Another crisis with Germany was passed. Germany had not given a promise or pledge, as is sometimes loosely said; she had announced a policy which she would adhere to under certain conditions, but which she would consider herself free to abandon if those conditions failed to come into being. She had not admitted and would not admit that her submarine warfare, while not in accord with the rules of international law, was not an appropriate reply to British violation of those rules. Nevertheless, she had made a real concession, which for eight months kept the peace between her and the United States.

Wise statesmanship on Germany's part might now have kept the United States neutral and probably have won the war, for the Allies doggedly refused to avail themselves of Wilson's offer of assistance. In May, at the time of the settlement of the *Sussex* controversy, House was again urging the matter upon Grey, pointing out that now that Germany had yielded, public sentiment in the United States would demand that the Government assert its rights no less vigorously against the Allies. The time was ripe, he thought, for the President to issue his peace call, to be followed by the entry of the United States into the war, unless Germany showed a

surprising willingness to yield. But Grey would not broach the matter to France, now wrought up over the salvaging of Verdun; and Jusserand, when House mentioned the matter to him, would transmit no such suggestion to his Government. There was nothing for Wilson and House but to acquiesce, and the United States continued its position of neutrality.

CHAPTER V

THE END OF NEUTRALITY

THE Allied rejection of Wilson's offer of intervention was followed by the most critical period of the war the relations between the United States and Great Britain. Wilson's last effort in the direction in which he and House had been working was made in his address of May 27, 1916, at the Washington meeting of the League to Enforce Peace.[51] As originally planned, this address was to include a demand for a peace conference and was thus to make part of the Wilson-House plan of intervention, but the failure of the Allies to respond to this suggestion led to the abandonment of this part of the plan. What remained was a statement of some of the principles upon which, in the President's mind, a durable peace must be based, and, most significant of all, a promise that the United States would interest itself in an arrangement for the future maintenance of the world's peace through membership in "any feasible association of nations formed in order to realize these objects and make them secure against violation."

Here was a suggestion of a revolutionary change in American foreign policy, an abandonment of our traditional isolation in order to help assure world peace in the future. It was a suggestion directly in line with the ideas conveyed by Sir Edward Grey to Colonel House in the preceding autumn. Perhaps the President, despite the disappointing outcome of the House mission, expected

some sort of favourable response from the Allies. Instead, English and French opinion ignored the vital portions of his address and fixed their attention upon two passages that could be interpreted as adverse to the Allied cause. These were a sentence near the beginning, in which the President stated: "With its [the war's] causes and objects we are not concerned," and the reference near the close to maintaining "the inviolate security of the highway of the seas." The first seemed to be a repudiation of the alleged moral superiority of the Allied cause; the second was construed as a blow at British sea-power.

The almost total lack of sympathetic response from England and France went far to destroy the President's friendly attitude towards those nations and their cause. "From this period," writes Professor Seymour, "dates his suspicion of Allied motives in the war, which was not entirely dissipated by co-partnership against Germany after 1917, and was intensified during the Peace Conference."[52]

The ambitious plans of Wilson and House having failed, diplomacy was left for a season in the hands of Secretary Lansing and Counsellor Frank L. Polk. Germany was for the time being on her good behaviour, but the gentlemen of the State Department found ample cause for further contention with Great Britain and France, particularly the former. A series of unnecessarily irritating actions on England's part brought things to such a pass that perhaps only Germany's greater provocations made it possible to maintain friendly relations between the English-speaking nations.[53]

In May 1916 there was trouble over interference with American mails by the British authorities. In July,

American feeling flared up again at the British order-in-council formally setting aside what was left of the Declaration of London, though the order was accompanied by a declaration that it was the purpose of the British Government and its allies "to exercise their belligerent rights at sea in strict accordance with the law of nations."[54]

The most serious straining of Anglo-American relations, however, was the result of the "black list" published by the British Government on July 18, 1916. This was a list of about fifteen hundred commercial firms in neutral countries with which, because of their business associations with the Central Powers, British subjects were forbidden to trade.

Counsellor Polk, to whom was delegated the preparation of the American protest, pointed out the extraordinary scope and effect of the policy. "British steamship companies will not accept cargoes from the proscribed firms or persons or transport their goods to any port, and steamship lines under neutral ownership understand that if they accept freight from them they are likely to be denied coal at British ports and excluded from other privileges which they have usually enjoyed, and may themselves be put upon the black list. Neutral bankers refuse loans to those on the list and neutral merchants decline to contract for their goods, fearing a like proscription. . . ."

Whatever might be said of the measure's legality, Polk continued, "the Government of the United States is constrained to regard that practice as inconsistent with that true justice, sincere amity, and impartial fairness which should characterize the dealings of friendly Governments with one another."[55]

The effect of the black list upon American opinion

was pronounced. A journal generally so friendly to the Allies as the New York *Times* characterized it as "quite the most tactless, foolish, and unnecessary act of the British government during the war." Even Ambassador Page regarded it as "tactless and unjust" and entered some sharp protests against it at the British Foreign Office.[56] It further hardened the President's distrust of the Allies. Page, who had been brought home on a visit to get the American point of view—though he never realized that this was its object—was told by Wilson "that when the war began he and all the men he met were in hearty sympathy with the Allies; but that now the sentiment toward England had greatly changed. He saw no one who was not vexed and irritated by the arbitrary English course."[57]

Congress, at the President's wish, authorized him to retaliate, through restriction of imports or refusal of clearance papers, against nations that restricted the trade of American citizens. Congress also, in September 1916, voted an enormous appropriation for naval building, a program that would make the American navy approximately the equal of the British. To House, who was discussing British relations with him, the President remarked: "Let us build a navy bigger than hers and do what we please."[58] If Germany continued to behave herself, it seemed that American sympathy might swing in her direction.

But Germany was not to keep the peace. The Central Powers, while holding their own on the western front during the year, had won notable successes against Russia and in the Balkans. They were now disposed to "cash in" their successes by making a peace which should re-

flect the outlines of the war map, or, failing that, to launch a submarine campaign against English commerce which would bring England to her knees and so compel the Entente Allies to accept a victor's peace.

In October 1916 Ambassador von Bernstorff warned House that if peace was not made soon, the German Government would "be forced to regain the freedom of action" which it had surrendered in the *Sussex* negotiations, and suggested that if the President had any intention of summoning a peace conference, he had better act promptly. Germany preferred that a peace proposal should come from a neutral source, but if such a proposal was long delayed, she must herself take the initiative.[59] Faced with the prospect of the reopening of the submarine question, the President resolved to make an effort for peace by compromise. House was opposed to any peace move not approved in advance by the Allies, and it may have been House's opposition that delayed the President's action till December 1916. As late as November 26, 1916 Zimmermann, the German Foreign Secretary, told Bernstorff that his Government was still awaiting Wilson's action, but as Bernstorff thought Wilson might delay indefinitely, the German Government decided, on December 9, to offer peace on its own account.[60]

The German peace-offer, dated December 12, 1916 and sent through the United States and other neutral governments, announced the willingness of the Central Powers to enter into peace negotiations.[61] After the to-be-expected glorification of their feats of arms they declared that they did not seek "to crush or annihilate their adversaries," but on the contrary that "the

propositions which they would bring forward and which would aim to assure the existence, honor, and free development of their peoples, would be such as to serve as a basis for the restoration of a lasting peace."

Lansing transmitted the German note to the Allied capitals, adding a statement that his Government was deeply interested in the result and "would deeply appreciate a confidential intimation of the character and purpose of the response that will be made," and further that it would presently have certain proposals of its own to make in the direction of peace.[62] At the suggestion of House, and Sir William Wiseman of the British embassy, an effort was made to dissuade the British Government from issuing a categorical refusal of the German proposal until the State Department had tried to ascertain through Bernstorff what the German terms really were, as House had some hope that those terms might be sufficiently reasonable to form a basis of negotiation.[63]

This request went unheeded. On December 29, 1916 Ambassador Sharp, at Paris, forwarded to Washington the joint reply of the Allied Governments.[64] Those Governments indignantly rejected the German proposal, which, they declared, "appears less as an offer of peace than as a manœuvre of war," designed to divide opinion in the Allied countries and to unite it in Germany. No peace was possible, they declared, "as long as the reparation of violated rights and liberties, the acknowledgment of the principle of nationalities and of the free existence of small states shall not be assured; as long as there is no assurance of a settlement to suppress definitely the causes which for so long a time have menaced nations and to give the only efficacious guarantee for the security of the world."

Before this reply had been delivered, Secretary Lansing had dispatched to the belligerents, on December 18, President Wilson's invitation to state the objects for which they were fighting, in the hope that a comparison of the aims of the two camps might afford some ground of compromise.[65]

What Lansing's part in drafting this inquiry had been does not appear. The discussions with Bernstorff were almost invariably conducted through House. Bernstorff wrote on January 10, 1917: "Since Wilson decides *everything*, any interview with Lansing is a mere matter of form."[66] But on December 21, 1916 the Secretary attracted attention by a statement given to the press in regard to the Wilson proposal:

> "It isn't our material interest we had in mind when the note was sent, but more and more our own rights are becoming involved by the belligerents on both sides, so that the situation is becoming increasingly critical.
>
> "I mean by that, that we are drawing nearer the verge of war ourselves, and, therefore, we are entitled to know exactly what each belligerent seeks, in order that we may regulate our conduct in the future. . . .
>
> "The sending of this note will indicate the possibility of our being forced into the war. That possibility ought to serve as a restraining and sobering force, safeguarding American rights. It may also serve to force an earlier conclusion of the war. Neither the President nor myself regards this note as a peace note; it is merely an effort to get the belligerents to define the end for which they are fighting."[67]

The sensation caused by this announcement was so great that the Secretary gave out another on the afternoon of the same day, denying that the United States was considering any change in its policy of neutrality.

In reply to the American request, the German Government, followed by its allies, stated, on December 26, 1916, that in its opinion the best way to an agreement would be through a direct interchange of views between the belligerents and accordingly proposed "the speedy assembly, on neutral ground, of delegates of the warring States."[68]

The Allied reply of January 10, 1917, on the other hand, made a fairly specific statement of the war aims of those nations, including the restoration, with indemnities, of Belgium, Servia, and Montenegro; evacuation of the invaded territories of France, Russia, and Roumania, "with just reparation"; "restitution of provinces or territories wrested in the past from the Allies by force or against the will of their populations"; liberation of Italians, Slavs, Roumanians, and Czecho-Slovaks from foreign domination; liberation of populations "subject to the bloody tyranny of the Turks," and the expulsion of the Ottoman Empire from Europe; and the reorganization of Europe upon a just and stable basis. "That which they desire above all is to insure a peace upon the principles of liberty and justice, upon the inviolable fidelity to international obligation with which the Government of the United States has never ceased to be inspired."[69]

These conditions, however just and reasonable they appeared in themselves, were sufficiently elastic to include most of the nationalistic ambitions of the Allied

Governments. Interpreted by Allied statesmanship, they would mean the dismemberment of Germany and Austria as well as Turkey, and in addition an indefinite amount of indemnities to be saddled upon the Central Powers. It is hard to see any possibility of reconciling them with the natural expectations of the Central Powers.

In the belief, however, that the Allied terms were "bluff" and that the Allies would take less, Wilson continued his peace efforts. On January 22, 1917 he addressed the Senate on the subject of the recent exchange of views. This had, he believed, brought nearer a discussion of the peace which should end the war and of "the international concert which must thereafter hold the world at peace." The United States, he believed, would stand ready to enter such a concert if the terms of peace were such as it could approve. It must be "a peace without victory," based upon recognition of the equality of all nations, upon the principle "that governments derive all their just powers from the consent of the governed," guaranteeing an outlet to the sea for every great people, the freedom of the seas, and general reduction of armaments.

Three days before this address was delivered, Ambassador von Bernstorff had been apprised of the German Government's decision to renew unrestricted submarine warfare, on February 1.[70] The German military party had at last triumphed over Bethmann-Hollweg, and all discretion was to be abandoned.

Bernstorff, according to instructions, kept the information to himself until January 31, meantime using all his influence to have the decision altered. On January 27

he reported an important interview with House, in which the latter brought a direct message from the President: "Wilson offers in the first place, in confidence, peace mediation based on his message to the Senate, that is, without interfering in the matter of the territorial conditions of peace." House went on to say that the President considered the Allied terms impossible of acceptance, but believed them to be "bluff," and that if Germany would but state her terms, which he urged, the President believed he could make peace before spring.

Bernstorff then added some wise words of advice to the German Government. If the U-boat war was commenced, he said, the President would regard it as a slap in the face, and war would be unavoidable. It would then be impossible to tell when the war would end, "since the resources of the United States are, in spite of all statements to the contrary, very great. On the other hand, if we meet Wilson's proposition, and if, in spite of that fact, these plans are brought to naught by the obstinacy of our opponents, it will be a very difficult thing for the President to undertake a war against us, even if we were then to start the unrestricted U-boat warfare. Thus, at the present, all we need is a brief delay in order to improve our diplomatic position. In any event, my view of the situation is that at this time we can get a better peace by means of conferences than if the United States should join our enemies."[71]

Such good advice had no chance of a hearing with the headstrong military men who now controlled German policy. In reply, Chancellor Bethmann-Hollweg professed to accept Wilson's offer of mediation, but refused either to postpone the opening of the submarine cam-

paign or to make public a statement of Germany's peace-terms, though he authorized Bernstorff to give the President a confidential memorandum of the conditions that Germany *would have been* willing to offer had the Allies accepted her proposal of December 12.[72]

The ambassador was to make known this information at the same time with the announcement of the new submarine-policy. Accordingly, on January 31, he delivered to the Secretary of State the Chancellor's memorandum of January 16.[73]

"After bluntly refusing Germany's peace offer," the memorandum stated, "the Entente-Powers stated in their note addressed to the American Government that they are determined to continue the war in order to deprive Germany of German provinces in the West and the East, to destroy Austria-Hungary and to annihilate Turkey. In waging war with such aims, the Entente-Allies are violating all rules of International Law. . . .

"Under these circumstances Germany will meet the illegal measures of her enemies by forcibly preventing after February 1, 1917, in a zone around Great Britain, France, Italy and in the Eastern Mediterranean all navigation, that of neutrals included, from and to England and from and to France, etc., etc. All ships met within that zone will be sunk."

A second accompanying memorandum defined precisely the blockaded areas, promised safety for neutral ships which should have sailed prior to the announcement, and provided for the passage, under rigid restrictions, of one American passenger steamer each week to and from the English port of Falmouth.

The announcement of the German decision made

inevitable the severance of diplomatic relations with the German Government. Before noon on February 1 Lansing had drafted the note informing Bernstorff of this step. In a conference of Wilson, Lansing, and House the only question was whether the break should come immediately or not until the commission of an overt act on Germany's part. The three men agreed that an immediate break would be best, and the note which Lansing had drawn up was approved. It was not, however, delivered until February 3, since Wilson had promised Senator Stone, chairman of the Senate Foreign Relations Committee, to notify him before sending Bernstorff home. Stone, who was in St. Louis, was requested to come to Washington at once.

Secretary Lansing's note of February 3, 1917 quoted pertinent passages from the *Sussex* correspondence and from the recent German announcement and stated that the Government of the United States had no alternative but to take the course which it had threatened after the *Sussex* sinking. "The President has, therefore," wrote Mr. Lansing, "directed me to announce to Your Excellency that all diplomatic relations between the United States and the German Empire are severed, and that the American ambassador at Berlin will be immediately withdrawn, and in accordance with such announcement to deliver to Your Excellency your passports."[74]

President Wilson as yet refused to believe that war with Germany must follow. All the trend of his mind was against it. America's entrance into the war, he told Frank Cobb of the New York *World*, "would mean that we should lose our heads along with the rest and stop weighing right or wrong. . . . It means an attempt to re-

construct a peace-time civilization with war standards, and at the end of the war there will be no bystanders with sufficient power to influence the terms. There won't be any peace standards left to work with. There will be only war standards. . . . Once lead this people into war and they'll forget there ever was such a thing as tolerance. If there's any alternative, for God's sake, let's take it."[75]

So in the address to Congress on February 3, 1917, in which he announced the dismissal of Bernstorff, he declared that he could not believe the German Government would actually carry out its threat. He and House entertained some hopes that through the newly-arrived Austrian ambassador—the successor of Dumba—and his Government they might yet dissuade Germany from the committing of an overt act against neutral ships or neutral lives, but the hope proved unfounded.

Meanwhile Secretary Lansing, who had not shared the President's pacifism, but had long desired a break with Germany, was worried over his chief's apparent indecision and was unable to learn the direction of his thoughts. The lack of confidential relations between Wilson and his Cabinet was never more apparent than during these weeks, when, as Colonel House observed, he not only declined to take the Cabinet into his confidence, but was "impatient of any initiative on their part."[76]

Germany lost little time in forcing the President's hand. First Allied ships with Americans on board, then one after another American vessels, were torpedoed without warning and with loss of life. On February 26 the President asked Congress for authority to arm American merchantmen for defence against submarines. The

desired measure was defeated by a filibuster in the Senate, but Wilson resourcefully discovered the necessary authority in an old statute.

On February 26 the Government received from the British Naval Intelligence Service the Zimmermann dispatch from the German Government to the German ambassador in Mexico, proposing an alliance of Germany, Mexico, and Japan against the United States, which should restore to Mexico her "lost provinces" of New Mexico, Texas, and Arizona. The note was promptly given to the press. Zimmermann made no denial of its authenticity, and it greatly strengthened the war spirit in the United States.

The term of Congress expired on March 4. As the sinkings of American ships mounted in numbers, the President decided at a Cabinet meeting, on March 20, to call the new Congress to meet in special session on April 2. On that day he addressed the two houses, advising that they give formal recognition to the state of war that had been thrust upon the nation by Germany. Congress on the 6th resolved: "That the state of war between the United States and the Imperial German Government which has been thrust upon the United States is hereby formally declared," and on the same date the President proclaimed the existence of war.[77]

In sketching the course of events that led up to the declaration of war by the United States it has not been possible to say a great deal of Secretary Lansing's part therein. On the surface of things it was not great. Determinations were in Wilson's hands. The Cabinet knew little of his thoughts, and Lansing was perhaps as much in the dark as any. House was much nearer the President

than any of his official family, and, as has been seen, critical and confidential negotiations almost invariably went through House.

Yet Lansing's influence was perhaps greater than appearances indicate. Much earlier than Wilson he saw the inevitability of war with Germany. More consistently than Wilson he regarded the cause of the Allies as that of the United States. His steady pressure in that direction, even though Wilson seemed impervious to it, may have had its influence upon the President's final decision. It may occasion some surprise to add that Lansing preceded and influenced Wilson in linking the Allied cause with the cause of world democracy, but on that point the evidence seems clear.

On December 3, 1916 Mr. Lansing made note of some ideas in regard to the proposed League to Enforce Peace, then prominent in the President's thinking. The primary need in such an organization, he remarked, is trustworthy membership; and since autocratic governments could not be trusted, only nations with democratic institutions should be admitted to the League.

Again, in the Cabinet meeting of March 20, 1917, Mr. Lansing remarked that the revolution in Russia removed the last obstacle to viewing the war as one for democracy and against absolutism. The only hope for permanent peace, he added, was in the establishment of world-wide democracy, and by entering the war now, the United States would be battling for the democratic ideal.[78]

President Wilson at the time took issue sharply with these ideas. But in the thirteen days during which he was formulating his war message, the Secretary's suggestions

evidently took root and flourished until they flowered in some of the oft-quoted passages of the address.

"A steadfast concert for peace," said Wilson,[79] "can never be maintained except by a partnership of democratic nations. No autocratic government could be trusted to keep faith within it or observe its covenants. . . .

"Does not every American feel that assurance has been added to our hope for the future peace of the world by the wonderful and heartening things that have been happening within the last few weeks in Russia? Russia was known by those who knew it best to have been always in fact democratic at heart . . . and now . . . the great, generous Russian people have been added in all their naïve majesty and might to the forces that are fighting for freedom in the world, for justice, and for peace. . . . The world must be made safe for democracy."

The kinship of the idea thus expressed to those previously stated by Lansing is so evident that it seems safe to ascribe them to his influence.

CHAPTER VI

WAR-TIME RELATIONS WITH EUROPE

THE breaking of diplomatic relations with Germany and the subsequent declaration of war raised the question of the relations of the United States with Germany's allies. Of these we had had serious controversy only with Austria-Hungary, and our grievances against her were distinctly less than those against Germany.

Since Austria had endorsed the new German submarine-policy, the United States declined to receive Count Tarnowski, who had arrived in Washington about February 1, 1917, as Austrian ambassador. There was no desire, however, to have other than peaceful relations with Austria, and during February 1917 the State Department was even exploring the possibility of bringing about a separate peace between Austria and her opponents.[80] This enterprise bore no fruit. Upon the declaration of war against Germany the Austrian Government severed relations with the United States, on April 8, 1917. Turkey followed suit on April 20. On the other hand, the Bulgarian Foreign Minister stated on May 10 that his Government would not break with the United States despite pressure from Germany and Austria.

Declaration of war against Austria did not come until December 1917, and then as a result of the military situation in Italy. During the last week of October the Italian front crumpled beneath Austro-German attacks, and disaster threatened. On October 27 Ambassador

Thomas Nelson Page cabled that an American declaration of war against Austria would have a beneficial moral effect in Italy. This course was repeatedly urged by both the Prime Minister and the Foreign Minister of Italy.[81] The question was referred to Colonel House in Europe for conference with the British and French,[82] and, the decision being favourable, Congress passed a war resolution on December 7, 1917, and the President signed it on the same day.

With Turkey and Bulgaria the United States remained at peace. Why the Government elected this course was explained by Secretary Lansing to the Senate Foreign Relations Committee on May 2, 1918. War with Turkey, he pointed out, would mean the destruction of American educational and commercial interests in that country and the removal of the restraining influence of our missionaries, while the United States would have nothing concrete to gain by war. Nothing was to be gained, either, by going to war with Bulgaria; on the other hand, there might be distinct advantages in keeping open diplomatic relations with one member of the enemy camp.[83]

While the United States was establishing its attitude towards the Central Powers, it was at the same time working out a plan of co-operation with the nations of the Entente. A procession of Allied commissions visited the United States during 1917. A British mission headed by Arthur Balfour, then Foreign Minister, reached Washington on April 22, followed three days later by a French mission headed by Viviani, Minister of Justice and former Premier. In May came an Italian war-commission led by the Prince of Udine, to be followed in turn by commissions from Russia, Belgium, and Roumania

in June, Japan in September, and Serbia in December.[84] The Japanese mission, which was of a special character, is treated at length elsewhere. The others varied in importance in proportion to the roles played by their respective countries in the World War.

Most important, naturally, were the British and French commissions, which laid before the American Government their needs in men, in supplies, in munitions, and in shipping. Their conferences with American officials in Washington led to decisions vital for the winning of the war. It was announced that an expeditionary force, including a division of railroad engineers and six base hospitals, would be sent at once to France; that all shipping, as far as possible, would be devoted to emergency transportation; that control and purchase of munitions would be centralized in an Allied buying committee; that the American ship-building program would be speeded up; that the United States would co-operate in the anti-submarine war and in the rationing of Holland and the Scandinavian countries.[85] Long-standing controversies with Great Britain quickly vanished as the United States took its place beside the Allies in the war. Objections to the British blockade and even to the notorious black list were forgotten. "Mr. Balfour," said Mr. Polk, in an illuminating conversation at the State Department, "it took Great Britain three years to reach a point where it was prepared to violate all the laws of blockade. You will find that it will take us only two months to become as great criminals as you are!" "And the State Department was as good as its word," comments Mr. Hendrick. "It immediately forgot all the elaborate 'notes' and 'protests' which it had been addressing

to Great Britain. It became more inexorable than Great Britain had ever been in keeping foodstuffs out of neutral countries that were contiguous to Germany."[86] An American "black list" issued by the War Trade Board in December 1917 named some sixteen hundred persons, firms, and corporations in Latin America with whom subjects of the United States were forbidden to trade, and a supplementary list of May 1918 added some five thousand names in various neutral countries.[87]

Much of the work of the Allied commissions was naturally with agencies outside the State Department, but the visits of every commission, even the minor ones, were attended with much ceremonial, which must have been a serious drain on the time and energy of the Secretary of State. The Serbian commission, for example, which was in Washington in December 1917 and January 1918, besides its discussions with the State Department, had to be escorted to the halls of the Senate and the House of Representatives, before both of which Dr. Vesnitch, the head of the commission, delivered addresses, and also to be conducted to Mount Vernon, where, in Secretary Lansing's presence, Dr. Vesnitch laid a wreath upon Washington's tomb.[88] The practical work of such commissions as those from Roumania and Serbia lay in the direction of securing loans and enlisting for their national armies Roumanians and Serbs in the United States.

Meanwhile, in Europe the United States was working into ever closer military co-operation with the Allied powers. An American commission headed by Colonel House, General Bliss, and Admiral Benson arrived in London on November 7, 1917. On the same day Secre-

tary Lansing announced that their object was "a more complete co-ordination of the activities of the various nations engaged in the conflict and a more comprehensive understanding of their respective needs."[89] These aims were to be realized through the Interallied War Conference at Paris, November 29–December 3, 1917. Here steps were taken leading to closer co-operation in finance, munitions, shipping, and food-supply, but the point most pressed upon the Americans was the need for men. The Russian collapse meant that perhaps six hundred thousand Germans would be released for duty on the western front, while it seemed that Allied strength might fall off in 1918 by an equal number. The United States must fill the gap. General Bliss in his report urged that there should be twenty-four American divisions in France by the summer of 1918. There might be no campaign in 1919, he said—the United States must come now if at all.[90]

Contemporaneously the United States took part in establishing the Supreme War Council. The Italian collapse at Caporetto was followed by a conference at Rapallo, on November 9, of the Prime Ministers of Great Britain, France, and Italy, and their chiefs of staff, at which it was decided to create an interallied strategic board "to watch over the general conduct of the war." This body, to be known as the Supreme War Council, was to consist of the Prime Minister and a member of the Government of each power, with a military representative from each. Nominally it would have only advisory power; actually it would have much more than that. In a speech in Paris, on November 12, Lloyd George spoke of "a war condemned to disaster for lack

of unity." "The war," he declared, "has been prolonged by particularism. It will be shortened by solidarity."[91]

The announcement and Lloyd George's speech created a storm of criticism in England, on the ground that the military commanders were to be subjected to political control. Facing a possible defeat in Parliament, Lloyd George appealed through House to Wilson for help. House warmly endorsed the appeal, declaring his opinion that the overthrow of Lloyd George would be disastrous.[92] Wilson's response was a cablegram to House, the substance of which was made public on November 18, 1917, in which he stated that the Government of the United States considered "unity of plan and control" among the Allies and the United States as essential, and instructed House to attend the first meeting of the Supreme War Council, with General Bliss as military adviser.[93] The President's declaration effectively overcame British opposition to the plan.

In line with the foregoing was the creation, in the following March and April, 1918, of the Supreme Command, by which the French, British, and American armies were placed under the orders of General Foch as "strategic director of military operations." Like the creation of the Supreme War Council, this important step resulted from a military disaster—in this instance the great German drive in Picardy—which exhibited the weaknesses of divided command. As in the former case, also, the intervention of President Wilson, suggested this time by Generals Pershing and Bliss and Secretary Baker, had an important if not a decisive influence.[94]

During these same months General Pershing, backed

by Secretary Baker and President Wilson, was contending forcibly and in the end successfully for the creation of a distinct American army in France, against the strong desire of the French and British that American troops should be brigaded with those of the Allies.[95] But this was a matter that principally concerned rather the War than the State Department.

While the United States was entering whole-heartedly into military and naval co-operation with the Allies, it was taking a surprisingly mild interest in their plans for the expected division of the spoils at the war's end. During 1915, 1916, and 1917 the greater Allied nations had entered into certain secret treaties among themselves defining the territorial adjustments to be made at the expense of the Central Powers. Two of these treaties, one of 1915 and the other of 1916, after Italy entered the war, apportioned the choice parts of the Turkish Empire among Great Britain, France, Russia, and Italy. The Treaty of London, of April 1915, rewarded Italy's entry into the war with liberal promises of gifts of Austrian territory about the head of the Adriatic. A similar treaty of the following year promised the enlargement of Roumania at the expense of Hungary. Understandings with Japan of 1915 and 1917 promised her the former German islands in the Pacific north of the equator and a free hand in the Shantung peninsula.

The substance of most of these treaties was known to the Government of the United States before the close of the year 1917. During Mr. Balfour's mission to the United States in the spring of that year, he and Colonel House discussed probable terms of peace, and Mr. Balfour indicated upon a large map of Europe the approximate

apportionments of German, Austrian, and Turkish territory agreed upon in the treaties. Later, after a dinner at the White House, Balfour and House went over the same ground with the President. Apparently, however, none of the three attached great importance to the subject. It was Balfour (not House, as stated by Mr. R. S. Baker) who remarked that the Allies were "dividing the bearskin before the bear had been killed." Upon the President the discussion made so little impression that he seems to have forgotten all about it. He told the Senate Foreign Relations Committee, in August 1919, that "the whole series of understandings" was disclosed to him for the first time after his arrival in Paris.[96]

There is no evidence that Balfour, House, or the President informed the State Department about the secret treaties, but before the end of 1917 the Department was acquainted with the substance of most of them, perhaps all except those relating to Shantung. In August 1917 Ambassador Sharp, in Paris, was informed by Cambon of the agreements in regard to Asia Minor and reported his information to the Department.[97] In November 1917 most of these treaties and agreements were published by the Soviet Government of Russia, the only important omission being the Shantung agreements, of which the Soviet authorities were apparently not aware. Translations were published in the Manchester *Guardian* and in the New York *Evening Post* and other American papers. On December 5, 1917 Ambassador Francis wrote to the Department from Petrograd: "I have the honor to enclose herewith along with other documents a translation of the so-called 'Secret Treaties' as they appeared in the organ of the Soviets."[98] Secretary Lansing told the

Senate Foreign Relations Committee, in August 1919, that the embassy in Russia had reported to the Department on all the treaties published by the Soviet Government.[99]

There has been considerable criticism of the President and the Secretary of State for their indifference towards the secret treaties. It has been suggested that the United States might have insisted upon abandonment of the selfish aims embodied in those documents as a price for American aid in the war. While it does indeed seem surprising that neither the President, Colonel House, nor Lansing paid much serious attention to the treaties, it is not clear that it was in their power to have them modified. Had the treaties been known before the United States entered the war, it is conceivable that abandonment of the treaties by the Allies might have been made the price of American participation. But the United States Government did not know of the treaties till it had entered the war and lost its bargaining power. Furthermore, the agreements that caused most concern to the United States—those concerning Shantung—were never revealed until after the opening of the Peace Conference.

One of the most difficult problems that confronted the State Department during the war years was the formulation of a policy towards Soviet Russia. The overthrow of the tsarist monarchy aroused considerable enthusiasm in the United States. As has been shown, it was probably responsible, through Secretary Lansing's suggestion, for the Wilsonian war-for-democracy dictum. The ambassador of the United States was the first to recognize (March 22, 1917) the provisional Government of Lvov

and Miliukov and, according to a colleague, was very proud of his priority.[100] That the second provisonal Government, on May 18, 1917, pronounced in favour of a peace without annexations or indemnities was less disturbing to the United States than to the European Allies.[101] An American commission, headed by Elihu Root, was sent to Russia to work out plans for co-operation. It bore a note from the President accepting this formula with a small amount of interpretation, and one from Secretary Lansing declaring that "to stand side by side, shoulder to shoulder against autocracy, will unite the American and Russian peoples in a friendship for the ages."[102]

The Bolshevist Revolution, in November 1917, and the opening of peace negotiations with the Central Powers created an entirely new situation. The United States had no more in common with Communist Russia than with tsarist Russia. Nevertheless, for some months the attempt was made to keep up friendly relations, partly because Wilson held the idea of letting Russia work out her own destiny, partly in the hope that she might yet re-enter the war.

Indeed, the famous "Fourteen Points" address, in which the President declared that "the treatment accorded Russia by her sister nations" would be "the acid test of their good will," was directly designed as an appeal to the Russian people.[103] It was probably due less to this address than to the hard bargain driven by Germany at Brest-Litovsk that the Soviet authorities contemplated continuing the war and asked for assurances as to the support they might in that event expect from the United States.[104] Meantime, however, the same authori-

ties had taken the fatal step of repudiating the Russian debt.[105] The United States gave no assurances more definite than President Wilson's message of sympathy of March 11, 1918,[106] and Russia definitely withdrew from the war. Furthermore, the Soviet Government's reply to Wilson's message was a ringing Communist manifesto. "We slapped the President of the United States in the face," was the boast of Zinoviev.[107]

Even after this, Ambassador Francis stated that his Government still considered America "an ally of the Russian people,"[108] and as late as May 31, 1918 Lansing cabled Francis, for publication in Russia, assurances of "the friendly intentions of the United States towards Russia."[109] By this time, however, it was becoming difficult to convince the Soviet Government of the reality of those friendly intentions, for the period of Allied interventions on Russian soil had begun. On April 5–6, 1918, Japanese marines had landed at Vladivostok, to be followed somewhat later by the Allied Expeditionary Force in Siberia. During the spring and summer of 1918, Allied troops were also landed at Murmansk and Archangel on the White Sea coast.[110] A statement issued by the State Department, on August 3, 1918, affirmed that these expeditions, in all of which the United States was represented, were designed either to prevent Russian supplies from falling into German hands or to assist the Czecho-Slovak legion, then making its famous march across Siberia, and that the United States contemplated no interference with the sovereignty of Russia or intervention in her internal affairs.[111] Furthermore, pressure from Mr. Lansing, in November 1918, led to a great reduction in the strength of the Japanese force in Siberia.[112]

But participation in an invasion of Russian territory in the face of protests from the Russian Government was incompatible with a view of Russia as either ally or neutral. "Russia to the Entente was neither an ally nor an enemy, nor yet a neutral."[113] So the situation continued while the war lasted and handed on its anomalies to the Peace Conference.

The Czecho-Slovak legion in Russia, built up from former members of the Austrian Army, represented the fighting edge of the Czecho-Slovak nationalist movement. In 1916 Professor T. G. Masaryk, Dr. Beneš, and other prominent Czechs had set up a Czecho-Slovak National Council in Paris, with Professor Masaryk as president. When the legion in Russia was organized, its leaders accepted the Paris Council as a Government. Dr. Masaryk visited his fellow Czechs in Russia and later crossed Siberia and entered the United States in the spring of 1918. His work at Washington was so effective that on September 2, 1918 Secretary Lansing issued a statement recognizing the Czecho-Slovak National Council as a *de facto* Government "clothed with proper authority to direct the military and political affairs of the Czecho-Slovaks."[114] Similarly, on November 4, 1918, Secretary Lansing in a letter to President Dmowski of the Polish National Committee, recognized the Polish Army, "under the supreme political authority of the Polish National Committee, as autonomous and co-belligerent."[115] All of this anticipated, accompanied, and assisted the military collapse of Austria-Hungary.

CHAPTER VII

LATIN AMERICA AND THE CARIBBEAN

IN the outline of policies sketched by Secretary Lansing soon after his appointment as Secretary of State, relations with Latin America held a large place. Among the purposes therein set down were the strengthening of Pan-American feeling; the exclusion of German influence from the Caribbean nations and those near the Panama Canal; the cultivation of friendly relations with Mexico and the recognition of Carranza; and the purchase of the Danish West Indies to avoid the possibility of their falling into German hands. Large parts of this program were successfully accomplished. Its chief weakness lay in the fact that in taking strong measures to exclude German influence from the Caribbean, there was always danger of offending Latin America and so weakening the Pan-American feeling which it was desirable to fortify.

As a means of strengthening Pan-American solidarity Secretary Lansing took up with energy the proposal for a Pan-American peace pact launched by Colonel House in the autumn of 1914, but not pushed with much heart by Bryan. In its final form[116] the proposed treaty pledged the signers to "a common and mutual guaranty of territorial integrity and of political independence under republican forms of government" (apparently a seed from which grew Article X of the League of Nations Covenant), to the employment of international investigation

and arbitration as means of settling boundary disputes and all other questions not affecting "the honor, independence, or vital interests of the nations concerned or the interests of third parties," and to the prevention by each government of the departure from its jurisdiction of armed expeditions hostile to the established government of any of the contracting parties, or the exportation of arms for use in any revolutionary movement.

The plan was to secure first the adherence of the "A B C" powers to this treaty and thereafter enlist the smaller states. The ambassadors and Governments of Argentina and Brazil showed some enthusiasm for the pact, but Chile hung back, perhaps because of reasons connected with her boundary dispute with Peru; and Chile's opposition delayed action until 1917, after which the plan was laid aside for the broader one of a general League of Nations.[117]

But while this proposed treaty, which might perhaps have given a better tone to inter-American relations, failed of fruition, Mr. Lansing did enlist the co-operation of a group of Latin-American states in dealing with Mexico. Throughout the period of his secretaryship, or at any rate until after the close of the European war, he worked upon the belief that it was imperatively necessary to maintain peace with Mexico in order that the United States might have its hands free to deal with Germany when the time should come, even though that policy might mean the placid acceptance of some rebuffs from Mexican soldier-statesmen. Specifically this meant the recognition of Carranza, who, with his lieutenant Obregón, offered the best hope of the re-establishment of peace and order in Mexico. In following this policy, the

Secretary considered it wise to have the support of other American governments, both for the effect on Mexico and for the effect on inter-American relations in general.

The representatives at Washington of Argentina, Brazil, Chile, Bolivia, Uruguay, and Guatemala were called into conference in July 1915, and although Carranza by his uncompromising and defiant attitude made things as difficult as possible, the conferences resulted in October in the recognition of Carranza as head of the *de facto* Government of Mexico. This did not greatly mend matters, for in March 1916 Francisco Villa precipitated a new crisis by a raid across the border at Columbus, New Mexico. The punitive expedition under General Pershing, which Wilson sent into Mexico in pursuit of Villa, while it failed to attain its specific object, did for a while prevent further incursions. Its presence on Mexican soil, however, was greatly resented by Carranza (although he had provisionally consented to the expedition). In June an attack by Mexican troops on a detachment of the American force led to the mobilization of the National Guard, and war seemed imminent. An offer of mediation by certain Latin-American countries was declined, but the correspondence incident thereto paved the way to the appointment of a joint commission to consider the protection of the border and the presence of the punitive expedition in Mexico. The commission reached no agreement about the chief matters in dispute, but served as a shock-absorber during a critical period. In February 1917 the American troops were withdrawn, and shortly thereafter regular diplomatic relations with Mexico were established. From this time until the close of the European war, relations between the two Governments were

in the main friendly, although Secretary Lansing found frequent occasion to protest against the alleged confiscatory features of the new Mexican constitution, and American troops on several occasions crossed the border in pursuit of Mexican marauders.[118]

On February 18, 1916 the Senate ratified the Bryan-Chamorro Treaty with Nicaragua, by which the United States received a perpetual grant of the exclusive right to construct and operate a canal by way of the San Juan River and the lakes, or any other route, from the Caribbean to the Pacific, together with a ninety-nine-year lease of the Great and Little Corn Islands on the Caribbean side and a ninety-nine-year right to establish a naval base on Nicaraguan territory on the Gulf of Fonseca on the Pacific side.[119]

The treaty was ratified by Nicaragua in April, and ratifications were exchanged on June 22, 1916. The treaty led the United States deeper than before into Nicaraguan affairs. The sum of three million dollars paid by the United States for its canal and other rights was to be applied to the Nicaraguan debt or for other public purposes agreed upon by the two Governments, and disbursements were to be made only with the approval of the Secretary of State or of some person designated by him. Possibly this new financial supervision gave the United States an added political interest in Nicaragua. At any rate, when in the election of 1916 the Liberals, "unquestionably the stronger party," nominated for the Presidency Irias, follower and friend of our *bête noir* Zelaya, the United States actively supported the Conservative Chamorro, co-author of the treaty, and the latter was triumphantly elected.[120]

The Bryan-Chamorro Treaty was ratified over the protests of Nicaragua's neighbours, Costa Rica, Honduras, and Salvador. These states carried their protests before the Central American Court of Justice, established in 1907 under American auspices, which in an opinion rendered on September 30, 1916 held that in signing the treaty Nicaragua had violated the rights of Costa Rica. Nicaragua's refusal to be bound by the decision led to the dissolution of the court in March 1918.[121]

In 1919 the Department of State reached an agreement with Colombia in the Panama controversy. A treaty was prepared which satisfied Colombia and which received the approval of Senator Lodge, chairman of the Senate Committee on Foreign Relations, and of Senator Knox, but which, because of the controversy over the Treaty of Versailles and the opposition of Senator Fall, was not ratified until after the expiration of Wilson's Presidency.

The establishment of a protectorate over the Republic of Haiti and the military occupation of the Dominican Republic in 1915 and 1916 added to the responsibilities of the United States in the Caribbean region. The forcing of a protectorate upon Haiti Mr. Lansing later justified upon two grounds.[122] The step was taken, he told a committee of the Senate, first, to terminate long prevalent conditions of anarchy and savagery in the Republic, to establish peace and make possible economic and industrial development; second, to forestall German plans for a foothold in Haiti. The belief in aggressive German designs rested upon rather insubstantial evidence, but of the prevalence of political and economic anarchy there could be no doubt.

The Republic of Haiti occupies the western end of the island of the same name. It has an area of some ten thousand square miles and a population of over two million. Some ninety per cent of the inhabitants are Negroes, the remainder being of mixed race. While a few families have attained wealth and culture, the great mass of the people were, in 1915, little beyond the state of civilization enjoyed by their ancestors in Africa. No conception of democratic processes or of the responsibilities of office had ever gained a foothold in the political life of the Republic. Control of the Government was sought because it conferred control of the revenues, and was obtained, generally, by military means. In reply to a rather naïve inquiry from Secretary Bryan in 1915, asking whether a certain Haitian president was regularly elected, the American minister replied: "Elections as understood in America do not exist in Haiti. Elections being simply a continuation of military system under which the country is governed. The population generally takes no part in elections, the voting being done by soldiers acting under instructions. Few voters who vote many times."[123]

The typical course of events in Haiti was as follows: A president who had installed himself by a military revolution found that he was either unable or unwilling to furnish the compensation demanded by his followers. The latter turned to a discontented chief among the "outs" who could make plausible promises. The new leader overthrew the Government, drove the President into exile or otherwise rendered him innocuous, had himself "regularly" elected by the Parliament; and then prepared (with slight hope of success) to save himself from the fate meted out to his predecessor.

Thus (to present a small segment of the story) in January 1914 one Zamor overthrew President Oreste and was himself elected President the following month. In October 1914 Zamor was driven into exile by a certain Theodore, who in November was elected and installed as President. Theodore held on until February 1915, when he was overpowered by Mr. Guillaume Sam, who on March 4, as reported by the American minister, was "regularly and constitutionally elected at noon President of Haiti." Before the end of March there were new revolutionary stirrings, but Sam was successful in suppressing these. On June 23 the American chargé predicted a long life for the Government. On July 27 a sudden uprising in Port au Prince caused the flight of the President to the French legation for protection; but the cold-blooded execution of a number of political prisoners so infuriated the opposition that on the next day they dragged Sam from his refuge under the French flag, sliced his body into pieces of convenient size, and displayed them about the city.

On the day of the assassination of President Sam, American marines were landed and proceeded with the disarming of the native troops. Thirteen years later the marines were still there.

With the marines in secure control the United States Government, by the simple expedient of taking charge of the customs, compelled the Government of Haiti to sign a treaty giving the United States a protectorate over the Republic.

The treaty[124] provided that the President of Haiti should appoint a general receiver and a financial adviser upon nomination by the President of the United States,

the former to collect all duties on imports and exports, the latter to devise a proper system of accounting, systematize the debt, and make recommendations to the Minister of Finance. A constabulary was to be organized, to be officered by Americans, who might be replaced by natives as the latter became competent. One or more engineers were to be appointed in the same manner as the general receiver and financial adviser to supervise measures for sanitation, road-building, etc. Haiti agreed not to increase the national debt without the consent of the United States and not to alienate any territory. Finally, the right of intervention by the United States was established in a clause providing that the United States would if necessary take measures to preserve Haitian independence and to maintain "a government adequate for the protection of life, property, and individual liberty." The treaty was originally for ten years, but in 1917 was extended for double that period.

Disorder died out slowly, and for some years the marines and constabulary were engaged in chronic warfare with the species of warrior known to the United States as *cacos* or bandits, and to themselves, doubtless, as patriots.

Haiti's eastern neighbour, the Dominican Republic, occupies three-fifths of the island, but has a population less than half that of Haiti. Except that language and tradition are Spanish instead of French, conditions of race, culture, and politics differ little from those in Haiti. Mounting debts, long unpaid, had led the United States to intervene here even earlier, and in 1907 a convention had been adopted that established the office of general receiver, the incumbent to be appointed by the President

of the United States and to have charge of the collection of customs, a definite amount of which was each month to be set aside for application on the debt. The convention also forbade increase in the debt without the consent of the United States.

The convention did not result in either the suppression of disorder or the effective restriction of the Dominican debt, as was pointed out in a note from Acting Secretary of State Polk to Minister Russell, September 17, 1915.[125] In violation of the convention, said Polk, a current indebtedness of from five to seven million dollars had been contracted, while there had been not only vast peculations in the internal revenue, but also "a continual internecine struggle to obtain control of the Government and Government funds, which has resulted in a state of revolution so continuous as almost entirely to interrupt all national development in the Republic." Polk suggested that the best remedy for the situation would be a new convention, more comprehensive than that of 1907, but if that could not be arranged, then the United States might interpret the existing convention to give it the right to check the growth of the debt through the appointment of a financial adviser, and to provide for the establishment of order through the creation of a constabulary.

The note was virtually an ultimatum. It was presented by Russell to the Dominican Government on November 19, 1915, and its demands were rejected as threatening invasions of the national sovereignty.[126] It seems likely that intervention would have resulted from this situation alone, but the situation was complicated by the revolutionary activities of Desiderio Arias, Secretary of

War in the cabinet of President Jiménes. In respect to his relations to the United States, Arias might be described as the Zelaya of Santo Domingo. A most troublesome individual to his compatriots, he was especially hostile to the United States and was accused of being the real power behind the guerrilla warfare of the *cacos* in Haiti. It became an axiom of American policy that Arias should not come into control of the Dominican Government.

When, therefore, in May 1916, the revolutionary forces of Arias occupied the city of Santo Domingo, American marines were landed, and compelled Arias to withdraw,[127] and when, despite the protests of the American minister, the Congress chose a friend of Arias for President, Admiral Caperton announced that the troops would remain until all revolutionary activity had been stamped out and such reforms adopted as would ensure order and prosperity.[128] Meanwhile the general receiver of customs had extended his control over all other revenues and on August 18 was instructed to suspend all disbursements to the Dominican Government until the latter had reached an understanding with the United States. On August 26 Lansing cabled that the provisional Government would not be recognized till it had accepted the American view "as to control [of finance], constabulary, and other reforms and proves itself free from dominion of Arias."[129]

By November 1916 it was evident that the existing Dominican Government would make no concessions to American control and that the elections, which had been called for December, would probably give Arias complete control of the Government. Secretary Lansing went over the matter with Mr. Stabler, chief of the Latin-

American division of the State Department, and had Stabler put their views into a letter to him, of November 21, 1916, which he then sent to President Wilson.[130] After reviewing the danger that would result from having Arias in control, and the economic crisis resulting from the withholding of the revenues from the Government, the letter recommended that Santo Domingo be placed under military government, "basing this on the interpretation which the United States has given to the Dominican Convention of 1907 and also upon the present unsettled conditions in the Republic."

To this proposal President Wilson replied on November 26:[131] "It is with the deepest reluctance that I approve and authorize the course here proposed, but I am convinced that it is the least of the evils in sight in this very perplexing situation."

The military Government established by Captain Knapp's proclamation of November 29, 1916 supplanted entirely the civil Government of the Republic, which was not fully re-established until July 1924.

While the United States came into control of Haiti and Santo Domingo through means that are perhaps easier to justify morally than legally, it was securing possession of another key to the Caribbean through methods of unquestioned diplomatic propriety. The Danish West Indies had been the subject of several previous negotiations between the United States and Denmark. They commanded one of the important sea-lanes to the Caribbean and the Panama Canal, and the island of St. Thomas contained a port, Charlotte Amalie, which had possibilities as a naval base. The islands might have no great positive value to the United States, but it would be

uncomfortable to see them in the hands of a great naval power. Previous volumes of this series have told how, just after the Civil War, Secretary Seward had negotiated a treaty for the purchase of the islands, only to see it rejected by the Senate; and how in 1902 a purchase treaty negotiated by John Hay was ratified by the Senate, but defeated in the Danish upper house. Denmark was now not averse to parting with them, for the cost of maintenance was greater than the revenue, and Lansing was fearful lest the war might result in the absorption by Germany of Denmark and her island possessions. An offer of twenty-five million dollars was therefore made for the islands. On August 4, 1916 a treaty was signed on that basis, which was ratified by the United States Senate September 7. The Danish Parliament insisted upon submitting the question of ratification to a vote of the Danish people. This resulted favourably, and on March 31, 1917 the transfer took place. It was announced that the islands would in future be known as the Virgin Islands. [132]

The entry of the United States into the war raised the question of Pan-American co-operation. Other American nations had the same neutral rights to protect as the United States; and as the war was also proclaimed as a war for democracy, it might be expected that its appeal to the democratic nations of America would be peculiarly strong. The Department of State exerted its energies to make the war a general American policy.

There was, however, no unanimity of feeling in Latin-American countries towards the belligerents. Culture and tradition operated, in general, in favour of the Allies. On the other side were the influence of a large part of the

clergy, of important groups of German blood, especially in Brazil, of the German tradition in military circles, as in Chile, and of distrust of the United States, as in Mexico and Colombia. "German propaganda" there was also, but we know now that two could play at that game.

Pulled both ways by these conflicting forces, Latin America separated into three groups, which, respectively, declared war against Germany, broke off diplomatic relations, and remained neutral. Cuba and Panama, American protectorates as they were, followed the United States by prompt declarations of war, on April 7, 1917. Nicaragua broke off relations on April 18 and declared war on May 8. Honduras took the same steps in May and July 1917. Guatemala, anxious to follow the United States, feared that she might be attacked by her neighbours Mexico and El Salvador. She accordingly asked for an assurance of protection by the United States, and when that was granted, broke off relations, in April 1917, and declared war a year later. In Costa Rica, the legitimate Government had been overthrown by the Tinoco brothers, one of whom, Federico, had made himself President. President Wilson had refused recognition to a government founded upon revolution. The Tinocos now saw a hope of winning American favour and recognition by joining in the war. They accordingly offered the United States and the Allies the use of Costa Rican ports and waters and later broke off relations with Germany and even declared war. None of these measures, however, brought recognition, and Costa Rica won the enmity of Germany without gaining the recognition or friendship of the Allies. Haiti, assured by the State Department of "all proper support," broke off relations in

June 1917, but did not declare war until a year later. The Dominican Republic was throughout the war under the military government of the United States.

The only one of the larger Latin-American states to enter the war, and the only Latin-American belligerent that gave assistance of moment, was Brazil, which declared war on Germany, October 26, 1917, and sent a squadron of destroyers to the Mediterranean.

Of the other Latin-American states, Uruguay, Bolivia, Peru, and Ecuador broke off diplomatic relations, while Mexico, Salvador, Colombia, Chile, Argentina, Venezuela, and Paraguay remained neutral. In Argentina the sentiment of Parliament, and apparently that of the public, was in favour of entering the war against Germany. President Irigoyen, however, prevented a declaration of war or even a rupture of relations and attempted to organize the nations of Latin America for the purpose of taking an attitude towards the war quite independent of that of the United States. The plan of a conference for that purpose met with strong sympathy only in Mexico. It was effectively opposed by Mr. Lansing and eventually abandoned, while the Argentine Government in the end took a position of neutrality distinctly benevolent to the Allies.[133]

Mexico was the only state of Latin America whose attitude towards the war gave real concern to the United States. A few days after the breach of relations with Germany, Carranza proposed that the neutrals unite in inviting the belligerents to discuss peace, with the suggestion that a refusal of the invitation should be followed by the prohibition of the shipment of all supplies from neutrals to belligerents. Shortly after this came the

Zimmermann proposal of an alliance of Mexico, Germany, and Japan, Mexico to be rewarded with the recovery of the southwestern states of the United States. When sounded on this subject, by the American ambassador, Carranza denied that he had received such a proposal, but declined to say what his attitude would be should Germany actually propose an alliance.[134] German influence was strong during the early part of the war, but before its end German propaganda was fighting a losing fight against an American "publicity campaign," and pro-German sentiment was on the wane.[135]

CHAPTER VIII

THE LANSING-ISHII AGREEMENT

AFTER the United States entered the war against Germany, each of the important Allied nations sent a mission to this country to devise means for fuller co-operation in the war. Apparently quite in line with this procession of special missions was the visit of Viscount Kikujiro Ishii of Japan in the autumn of 1917. The announcement of his appointment as ambassador extraordinary and plenipotentiary was made by the Japanese ambassador in Washington on June 14, 1917. On June 27 the American chargé in Tokyo cabled Secretary Lansing that the purpose of the Ishii mission was to express Japan's gratification at the entry of the United States into the war and to discuss problems arising therefrom, especially the possible relief by Japan of American naval patrols in the Pacific and the co-ordination of efforts to supply munitions to Japan's European allies.[136] Mr. Wheeler added, however, that there was reason to believe Viscount Ishii's instructions would be very general and that he would have authority to take up any questions affecting the Far East which the two Governments might think it expedient to discuss.

In reality the discussion of co-operation in the war was a very minor object of the Ishii mission. Its real purpose was to bring about an understanding in regard to Chinese questions that had lately been productive of friction between Japan and the United States. To comprehend these

it is necessary to glance at the course of events in China, especially during the preceding winter and spring.

The chief elements in the Chinese situation may be briefly stated as follows: Japan, after abandoning the most extreme of the "twenty-one demands" which would have given her a protectorate over China, had settled down to a rather less aggressive policy under the Terauchi Ministry. This Ministry, however, held power by a none too safe margin and could not, with political safety, follow a course that would appear to weaken materially Japan's hold upon China.

The Entente Allies, and especially France, had been desirous to have China enter the war against Germany. Japan had opposed this course, fearing the consequences of the creation of a formidable Chinese army. But in February 1917 Japan arrived at a secret understanding with France, by which France agreed to support Japan's claims in the Shantung peninsula, while Japan in return would drop her opposition to China's entering the war.[137] From about the first of March, then, Japan altered her policy and worked to bring China into the war under Japanese tutelage. China, for her part, faced dangers whichever way she turned. If she entered the war, she might be forced to yield control of her arsenals and military establishment to Japan as the representative of Allied interests. If she remained neutral, she would have no part in the peace negotiations and might see her rights and even her territory handed about as "compensations" to dissatisfied powers.

The United States was represented in China by Minister Paul S. Reinsch, whose friendship for China and distrust of Japan were equally undisguised. His chief aim

was to lead China to look to the United States rather than Japan for financial assistance and political guidance. When the United States severed diplomatic relations with Germany, Reinsch endeavoured to lead China in the footsteps of his country and succeeded to the extent that on February 9, 1917 the Chinese Government issued an ultimatum to the German Government over its submarine policy. Reinsch cabled triumphantly that the Chinese Government had "committed itself to the leadership of the United States in this momentous matter."[138]

When, however, it became apparent that Japan was now pressing China to enter the war, American policy took the opposite tack. As early as March 2, 1917 Lansing cabled Reinsch that if China entered the war, the Allies "might yield to Japan control of the military situation in the Far East" and that "this would probably lead to Japanese control of China's military establishment."[139] When China, on March 12, broke off relations with Germany, Reinsch attributed the step to Japanese intrigue and was instructed by Lansing to dissuade China, if possible, from declaring war at that time.[140] In the same dispatch Lansing expressed concern over rumours of a scheme to divide China between a northern monarchy and a southern republic and stated that the United States would see with regret any movement to restore the monarchy or to divide Chinese territory or sovereignty.

Chinese political leaders now divided into two opposing groups. Premier Tuan Chi-jui and the Tuchuns, or military governors of the northern provinces, favoured war. A majority of Parliament, while not opposed to en-

tering the war as a policy, feared that Tuan and his followers would use the war powers to override Parliament and perhaps destroy it. They therefore insisted upon a reorganization of the Cabinet before they would vote for war.[141] President Li Yuan-Hung supported Parliament and on May 23 dismissed Tuan. Thereupon seven of the northern provinces announced their secession from the Republic. The Tuchuns held a meeting at Tientsin, and the entire northern military party united against the President. Should they succeed in overthrowing him, Reinsch reported on June 2,[142] the south would undoubtedly fight and a division of China into north and south would follow. "There is no basis of compromise in sight although a united mediation of the powers might save the situation."

In response to this report from Reinsch, Secretary Lansing sent out, on June 4, 1917, to London, Paris, and Tokyo a proposal for identical representations from those Governments and the United States, urging upon China a settlement of factional differences and the preservation of national unity.[143] Without awaiting replies to these proposals, he cabled Reinsch to communicate to the Chinese Foreign Office a statement deploring the existing dissension, declaring that the question of China's entering the war against Germany was a minor one compared with the preservation of her national unity, and closing with the declaration that the United States was deeply interested in "the maintenance by China of one central, united and responsible Government" and therefore hoped "that all parties and persons will work for the reestablishment of a coordinate government and the assumption of that place among the Powers of the world to

which China is so justly entitled, but the full attainment of which is impossible in the midst of internal strife and discord."[144]

This note was presented to the Chinese Government on June 5 and was the immediate occasion for an outburst of wrath in the Japanese press against American interference in China. Japan did not give direct advice to the Government of Mexico, it was argued; why, then, should the United States give political advice to China, a country over which Japan had as much tutelage as the United States had over Mexico?[145] Official Japanese comment was milder, confined chiefly to surprise that the State Department had sent its note without awaiting a reply to its proposal for identic representations.[146] But the political bureau of the Japanese Foreign Office had a hand in the press agitation, and still other circumstances led to the belief that the Japanese Government was ready to take advantage of the incident to force a show-down with the United States in its Chinese policy.[147]

It was in the midst of this imbroglio that the plan for the Ishii mission was announced. On June 12 Wheeler reported: "There are indications that pressure is being brought to bear upon the Foreign Office to utilize the incident to press the United States for an assurance which will virtually admit Japan's special and paramount position relative to China."[148] On June 14 the appointment of Viscount Ishii was announced, and on June 17 Wheeler again reported: "It is believed in official quarters that Viscount Ishii will be instructed to repeat [undertake?] conversations at Washington on the whole Chinese situation."[149]

Viscount Ishii, however, did not reach Washington until early in September, and in the mean time events of some importance for this narrative occurred in both Washington and China. On June 15 Ambassador Sato handed Secretary Lansing a memorandum in which Japan declined the American proposal for identic representations to China on the ground that there was a prospect of the Chinese factions settling their own difficulties. Although, it said, "Japan possesses paramount interests both political and economic in China," the Japanese Government would hold to its "avowed policy of non-interference in the essentially domestic affairs" of that country.[150]

At the same interview the ambassador read to the Secretary a statement referring to Secretary Bryan's note of March 13, 1915, to Viscount Chinda, in which Mr. Bryan had "declared that the activity of Americans in China had never been political." In view of this assurance, said Sato, the Japanese Government had attached no importance to rumours of the political activities of the American minister at Peking and did not doubt the fair and unselfish motives of the United States in its recent note to the Chinese Government, sent without previous consultation with Japan. But public opinion in Japan had been made uneasy by these occurrences, and the United States Government could make a good impression on the Japanese public and contribute to the friendly relations between the two nations if it "sees its way by some appropriate means to confirming the statement made by Mr. Bryan and clearly reasserting its friendly attitude toward Japan in respect to Chinese problems."[151]

In the oral communication it was made to appear that Mr. Bryan had recognized that "Japan has special and close relations, political as well as economic, with China." In the formal memorandum it was asserted that Japan possessed "paramount interests both political and economic in China." Just what oral reply Mr. Lansing made to the two communications is not in the record, but three days after the interview Wheeler cabled from Tokyo that Viscount Sato had reported that the Secretary of State "expressed himself as quite in accord with the deep sense of the memorandum," thus giving the impression that the Secretary of State had practically recognized the Japanese claim to "paramount interest" in China.[152]

Here was apparently an attempt, by a piece of diplomatic sharp practice, to make it appear that the United States was committed to a surrender of its traditional "open-door" policy in China. Lansing lost little time in setting the Japanese right. In a note,[153] of July 6, 1917, to the Japanese ambassador he stated that as an evidence of its friendly attitude towards Japan the United States was quite willing to reaffirm the position taken in Bryan's note, but pointed out that in that note Mr. Bryan had opposed political, military, or economic domination over China by any foreign power and had not recognized that Japan had close and special relations with China as a whole, but only that territorial contiguity created special relations between Japan and districts of Shantung, Southern Manchuria, and East Mongolia;[154] nor had Mr. Bryan renounced for the United States its right of expressing its views in regard to Sino-Japanese relations even in those districts. Mr. Lansing denied, fur-

thermore, that he had had any intention of recognizing any paramount interest of Japan in China; he had spoken, not of "paramount," but of "special" interest, "in the same sense in which the term was used in the note of March 13, 1915."

Meanwhile in China an attempt to restore the Manchu monarchy had miscarried, the disorder ending with Feng Kwo-chang as President, and Tuan Chi-jui again Prime Minister. The new Government declared war against Germany on August 14, 1917, its motives as reported by Reinsch being to strengthen its position internationally and to facilitate the suppression of domestic opposition.[155] Reinsch continued his efforts to bring Chinese war-policy under American influence, but was plainly told by Lansing, on August 13, that the State Department believed "the character of China's participation in the war should be decided by her after consultation with all the allied governments."[156]

As a result of her declaration of war China received from the Allied governments and from the United States assurances of "solidarity, friendship, and support" and of the regard due a great country. Her simple request for a recognition of her "equality among the Powers" was denied her.[157] On the other hand, Reinsch received from the Chinese Government assurance that it would retain complete control of its military forces, equipment, arsenals, and munition factories, and that any arrangements for giving military assistance to the common cause would be carried out by the Chinese Government itself.[158]

The opening conference between Secretary Lansing and Viscount Ishii was held in Washington on September

6, 1917.[159] After some rather perfunctory discussion of the possibility of Japan's furnishing tonnage for ocean transportation in return for the privilege of importing iron and steel from the United States, the diplomats cautiously approached the subject that was on the minds of both. Viscount Ishii made an avowal of the understanding of 1915 with Great Britain as to the division of the German islands in the Pacific, but revealed nothing of the secret understanding with England and France of February and March 1917, by which Japan was to receive support of her claims to Kiaochow;[160] in fact he left the Secretary with the impression that Japan still expected to restore Kiaochow to China.[161] Then to Ishii's question whether he had anything to propose in regard to China, Mr. Lansing urged that a reaffirmation of the "open-door" policy by the co-belligerents against Germany would have an excellent effect upon China and the world at large.

To this suggestion Viscount Ishii, apparently somewhat taken aback, replied that while the principle of the "open door" was in accord with Japanese policy, he feared there might be criticism in Japan of a bare redeclaration of that principle unless it was accompanied by some mention of Japan's special interests in China. To this the Secretary of State in his turn demurred. It could not be questioned, he said, that Japan's geographical position gave her a peculiar interest in China, but a formal declaration might be interpreted as recognition of a special political interest, the existence of which the United States could not concede. Thus in the first conference the issue was fairly joined—the "open door" versus "special interest." Could the diplomats find a formula to reconcile the two?

The discussion was resumed on September 22. Ishii had in the mean time consulted his Government, which had sustained his position. Lansing argued that the declaration he proposed was merely a measure of fairness to the Allies—an assurance that the United States and Japan would not take advantage of the war to push their selfish interests in China—and that in reality, because of her geographical position, Japan had more to gain from the "open-door" policy than any of her competitors. Ishii admitted the weight of both arguments, but fell back upon the political argument—if there were a declaration for the "open door" without recognition of Japan's special interest, the people of Japan would not understand, and the Government's position would be imperilled.

To this the Secretary replied that if the ambassador meant "paramount interest," he could not discuss the matter further, but that if he meant "a special interest based upon geographical position," he was not unwilling to consider it and would try to find a formula to satisfy the Japanese people.

Thus it was conceded that Japan's "special interest" should have formal recognition along with the reaffirmation of devotion to the principle of the "open door" in China. On September 26 Secretary Lansing sent to Viscount Ishii his draft of the proposed agreement. Numerous changes were made at the instance of Ishii, at the request of the Japanese Government, and some at the wish of Mr. Lansing himself. Nine more conferences and more than a month of time were required to reach entire accord.

The essential portions of the note exchanged November 2, 1917, are as follows:[162]

"In order to silence mischievous reports that have from time to time been circulated, it is believed by us that a public announcement once more of the desires and intentions shared by our two Governments with regard to China is advisable.

"The Governments of the United States and Japan recognize that territorial propinquity creates special relations between countries, and, consequently, the Government of the United States recognizes that Japan has special interests in China, particularly in the part to which her possessions are contiguous.

"The territorial sovereignty of China, nevertheless, remains unimpaired and the Government of the United States has every confidence in the repeated assurances of the Imperial Japanese Government that while geographical position gives Japan such special interests they have no desire to discriminate against the trade of other nations or to disregard the commercial rights heretofore granted by China in treaties with other powers.

"The Governments of the United States and Japan deny that they have any purpose to infringe in any way the independence or territorial integrity of China and they declare, furthermore, that they always adhere to the principle of the so-called 'open door' or equal opportunity for commerce and industry in China.

"Moreover, they mutually declare that they are opposed to the acquisition by any Government of any special rights or privileges that would affect the independence or territorial integrity of China or that would deny to the subjects or citizens of any country the full enjoyment of equal opportunity in the commerce and industry of China."

A series of skirmishes had been fought over the second paragraph. The original draft had used the phrase "special relations to China." Viscount Ishii had succeeded in changing "relations to" to "interests in." The Japanese Government had wished to go further and make the phrasing "special interests and influence." This proposal the Secretary successfully resisted. Other changes and omissions had perhaps somewhat heightened the emphasis upon "special interests" as against "open door," but the declarations on that subject were clear and strong. A victory for Lansing was registered in the last paragraph, where the two Governments declared their opposition "to the acquisition by *any* Government of any special rights or privileges that would affect the independence or territorial integrity of China," instead of the earlier form, which had read "by *any other* Government."

In a statement given to the American press on November 6, when the agreement was published, Secretary Lansing remarked that the Ishii mission, by clearing the air of growing suspicion between the two countries, had "accomplished a great change of opinion in this country" and thereby performed a valuable service for both. He stressed the reaffirmation of the "open-door" policy and the principle of non-interference with the sovereignty and territorial integrity of China, and the further service of the mission "in expressing Japan's earnest desire to co-operate with this country in waging war against the German Government."[163]

When we examine the extent of co-operation to which Japan agreed as a result of these conferences, it appears modest, to say the least. In return for the lifting of the embargo on shipments of iron and steel to Japan, the

Japanese Government did agree to furnish a certain amount of shipping for the transport service. The naval co-operation in the Pacific referred to in the press statement consisted in the substitution of one Japanese cruiser for one American cruiser in patrol duty about the Hawaiian Islands. To suggestions that Japan send troops to Europe Viscount Ishii turned a deaf ear and was almost equally unsympathetic to the proposal that Chinese troops be sent thither. It was plain that the one great object of his mission was the agreement as to China.

It has been suggested by a careful student of the period, Professor William E. Dodd, that Japan secured recognition of her "special interests" in China by virtually threatening to change sides in the war if her desires were not granted. [164] In the nature of things there would probably be no direct documentary evidence for such a hypothesis, but there are facts which render it plausible. Minister Reinsch telegraphed the State Department, October 23, 1917, of "indications that Japan is lukewarm toward the cause of the Allies, if not actually disloyal,"[165] and three days later he sent by letter (which did not reach Washington till after the notes had been published) a report from the American naval attaché in China to the effect that any interference with Japan's program in China might lead her to change sides. Reinsch was of course prone to believe ill of Japan, and such opinions from him should not carry great weight. More significant is the fact that in his first conference with Secretary Lansing Viscount Ishii remarked that Germany had thrice sought to persuade Japan to withdraw her support from the Allies, but that each time his Government had "firmly rejected the suggestion." To this

the Secretary tactfully replied that Japan's reputation for loyalty and good faith was so high that such German plottings could give the United States no concern. This was the inevitable diplomatic answer; yet one may wonder whether the ambassador's discreet revelation may not have had its influence in moulding the agreement nearer to Japan's desire.

CHAPTER IX

THE APPROACH OF PEACE

EVERY year of the war was punctuated with attempts to bring about peace, some emanating from neutral, and others from belligerent, sources. Lack of space forbids even an enumeration of such well-meaning but futile efforts, but brief mention must be made of one or two such enterprises for which the State Department was responsible.

One of these was the mission, if it can be dignified with that title, of Frank E. Anderson in the fall of 1917. Anderson was sent by the State Department to Holland to learn what he could of conditions in Germany. There he met and talked with some Germans, but decided that Switzerland offered a more fruitful field for his labours. He thought he had arranged for a meeting at Berne with Count Apponyi, the Hungarian statesman. When Apponyi failed to appear, he secured a safe-conduct for a journey to Vienna and Budapest and actually visited those enemy cities. He saw Count Apponyi and other persons of importance, who assured him that the Central Powers were ready to make peace on Wilson's terms, but by no means on those expected by France and England, and that Austria would stand by Germany to the end. This part of Anderson's investigation was wholly unauthorized. In fact, when his plans for a trip into Austria-Hungary were made known to the State Department, Lansing cabled peremptorily that he should not

cross the border, but Anderson was on his way when the message reached Berne.[166]

More mysterious than Anderson's wanderings was the secret mission that engaged the talents of former Ambassador Henry Morgenthau and Professor Felix Frankfurter in June 1917. On June 21 Secretary Lansing notified the American consul at Alexandria that the President was sending Morgenthau and Frankfurter abroad "in an effort to ameliorate Jewish conditions in Palestine" and that Mr. Morgenthau would reach Egypt in July.[167] Mr. Morgenthau wrote in 1922: "In June, 1917, the President asked me to go abroad upon a secret diplomatic errand, which I am not even yet at liberty to disclose."[168] A few pages further on, however, he prints the letter that he wrote to President Wilson in September 1917, in which the second paragraph begins with the statement: "No separate peace can be made at present with the Turks as they still think the Germans will be victorious. . . ." This sentence, whose purport is amply confirmed from other sources, sufficiently reveals the true object of Morgenthau's mission. He reached Gibraltar, where he and Frankfurter held a conference with French and British Zionists, after which they cabled home through Ambassador Willard at Madrid that the time was not ripe for an approach to Turkey.[169] Hints as to the object of their mission had got abroad, and since the plan could succeed, if at all, only under a cloak of secrecy, the whole undertaking was dropped.

The road to peace with Turkey lay through increased military pressure. Such was the advice cabled to Washington by Morgenthau and Frankfurter.[170] The United States, of course, was not at war with Turkey, and this

advice was intended for the European Allies. But the spirit of it became more and more the spirit of the conduct of the entire war. "Force, force to the utmost, force without stint or limit," declared President Wilson, on April 6, 1918. Force, embodied in war materials and in fighting men, flowed ceaselessly from America to France in the spring and summer of 1918. The tide of battle turned. The great German offensives of March, June, and July became a retreat by August. The German military machine was cracking. As late as the middle of July, General Ludendorff asserted positively that Germany would win the war through military success in France.[171] But at an imperial conference at Spa, on August 14, it was agreed that military victory was impossible and that an understanding with the enemy through neutral mediation should be sought.[172] The hope was still, however, to make a temporary or local gain on the western front and offer peace at that favourable juncture.

While Germany awaited this promised minor victory, the Government of Austria-Hungary, at the end of its resources and anxious to gain credit with its people for a peace move, broke away from its ally and on September 16, 1918 proposed to all belligerents a conference in a neutral country to discuss terms of peace.[173] The proposal was summarily rejected by Secretary Lansing on the ground that the Government of the United States had already stated its peace-terms and had no desire for a conference to discuss them.[174]

Meanwhile American and Allied forces on the western front, in Italy, in the Balkans, and in Asiatic Turkey, were making steady and at times spectacular gains. The

war was evidently drawing to an end. By the end of September the German High Command was panicky and demanding immediate peace. On October 1 Ludendorff sent to the Foreign Office a most urgent request "that our peace proposal shall be issued at once. Today the troops are holding their own; what may happen tomorrow cannot be foreseen."[175]

On September 29 Bulgaria signed an armistice agreement with the Allies. Turkey was to follow suit a month later. Before the latter event both Germany and Austria had made direct proposals for peace on the basis of the principles enunciated by the American President. The German note was transmitted to the State Department by the Swiss legation, on October 6; that of Austria-Hungary by the Swedish minister the following day.[176]

What was the American attitude towards peace? On January 8, 1918 President Wilson had enumerated the famous "fourteen points," proposing world peace based on perfect frankness in international relations, freedom of navigation and trade, disarmament, restoration of conquered territory, self-determination of peoples, the whole to be capped by "a general association of nations . . . formed under specific covenants for the purpose of affording mutual guarantees of political independence and territorial integrity to great and small States alike." Certain of these points had been elaborated and others had been added in subsequent addresses on July 4 and September 27, 1918.[177] It was upon the basis of this program that the Central Powers now announced their willingness to make peace. Should their offer be accepted?

On October 7, 1918 Secretary Lansing made a note of the manner in which he thought the German and Austrian

appeals should be answered. Political conditions differed in the two Empires, he thought, and should receive different treatment. In Germany the people had been taught to believe that the Entente aimed at the invasion and the economic as well as political destruction of the Fatherland. We should now, in order to win them to peace, hold out hope that the war could be ended if Germany would agree to reasonable military demands and democratize her form of government. Hence no peremptory refusal should be sent to Germany. Austria, on the other hand, the Secretary thought, ought to be broken up into her component parts along racial lines, both in justice to her subject races and to prevent her combined power from ever again being placed at the disposal of Prussian militarism.[178] A flat rejection of her peace proposal, he thought, would serve this purpose by breaking the morale of the Austrians and encouraging the subject nationalities to throw off the yoke.[179]

The course pursued was substantially that here suggested by the Secretary. In the notes to Germany the President insisted upon four things: full acceptance of the Wilson terms, evacuation of Allied territory, abandonment of illegal practices on land and sea, and an assurance that the Government with which terms might be made should represent the German people and not "the military masters and the monarchical autocrats of Germany."[180] The Austrian Government, on the other hand, was told that the President could not entertain its proposal for peace on the basis of the Fourteen Points, since conditions affecting Austria had in the mean time changed in vital respects. Point X had declared for autonomous development for the peoples of the Empire.

Now, however, the United States had recognized the Czecho-Slovak National Council as a *de facto* government and had "also recognized in the fullest manner the justice of the nationalistic aspirations of the Jugo-Slavs for freedom." Consequently those races, and not the President, must decide what actions on the part of the Austro-Hungarian Government would satisfy their aspirations.[181]

In Germany the President's demand for a government that should represent the German people was construed as requiring the abdication of the Kaiser.[182] Even this bitter pill Germany swallowed. On November 9 Chancellor Max of Baden announced that William II had abdicated, and later in the same day a German People's Government was formed, headed by the socialist deputy Ebert.[183] Previously, however, Germany had accepted the other points insisted on by the United States, the latter had transmitted the German proposal to the Allied governments, and those governments—though not until Colonel House, with the President's approval, had threatened to make a separate peace with Germany—had agreed to the principle of a peace based on the Wilson terms, with two reservations. On the subject of the "freedom of the seas"—Wilson's second point—they objected that this phrase was open to various interpretations, some of which they could not accept, and they therefore reserved complete freedom on that point. Furthermore, by Wilson's statement that invaded territory should be restored as well as freed, they declared that they understood that compensation would be made by Germany "for all damage done to the civilian population of the Allies and their property by the aggression of Germany by land, by sea and from the air."[184]

In transmitting this reply to the German Government Secretary Lansing stated that the President was in entire accord with the Allied position on the latter point. He also conveyed the information that Marshal Foch had been authorized to receive properly accredited German representatives in order to make known to them the terms of an armistice. Those terms, including the evacuation of all Allied territory and of the German lands west of the Rhine and the virtual disarmament of Germany on land and sea, were signed by the German delegation at five o'clock in the morning of November 11, 1918 and became effective six hours later.[185] Austria-Hungary and Italy had signed a similar agreement November 3.[186] The war was over.

CHAPTER X

THE PEACE CONFERENCE

ON October 14, 1918 Colonel House informed Lansing that the President had decided to name both of them as members of the American peace commission and furthermore that the President was considering going to Europe himself as head of that commission.[187] The first suggestion that the President should preside over the peace conference was probably made by Colonel House. At any rate, as early as February 1915, when the Colonel was on his first war-time mission to Europe, he discussed that possibility with Sir Edward Grey.[188] Just a year later he discussed the same subject with Grey, Lloyd George, Asquith, Balfour, and Reading, and on this occasion, as he recorded, "promised that the President will come to the Hague, if invited, and remain as long as necessary."[189] At this time the thought was that the President should preside at a conference as the spokesman of the leading neutral. In February 1917, however, when the United States was about to enter the war, Lloyd George remarked to Ambassador Page that he wished to see the United States in the war not so much for the war as for the peace.

"The President's presence at the peace conference," said Lloyd George, "is necessary for the proper organization of the world which must follow peace. I mean that he himself must be there in person. If he sits in the conference that makes peace he will exert the greatest

influence that any man has ever exerted in expressing the moral value of free Government. Most of the present belligerents will have suffered so heavily that their judgment also may have suffered and most of those that win will want some concrete gain, old wrongs righted, or boundaries changed. . . ."[190]

It was natural enough, then, that the President, whom circumstances had made the protagonist of an ideal peace program, should desire to attend the conference and fight in person for his ideals. That he was wrong in so deciding is easier to assert than to prove. His decision to go to Paris caused widespread criticism in high places in the United States,[191] and among those who opposed it was the Secretary of State. To Colonel House, in the conversation referred to, he stated his conviction that the plan was unwise and his hope that the President would abandon it, and to the President, on the day after the armistice was signed, he gave the reasons for his opinion. "I pointed out," he recorded, November 12, 1918, "that he held at present a dominant position in the world, which I was afraid he would lose if he went into conference with the foreign statesmen; that he could practically dictate the terms of peace if he held aloof; that he would be criticized severely in this country for leaving at a time when Congress particularly needed his guidance; and that he would be greatly embarrassed in directing domestic affairs from overseas."[192]

The Secretary's argument was received with the silence that Wilson habitually accorded to unwelcome advice. Six days later he announced his intention of going to Paris. This was the first important point of disagreement between the two men. "It was, I believe," wrote

Lansing later, "the beginning of his loss of confidence in my judgment and advice, which became increasingly marked during the Paris negotiations."[193] This seems an unnecessary assumption. Lansing freely admits that prior to this time he had found the President readily open to advice. Throughout the war period the two men had been nearly in accord on most public questions. As they approached the peace conference, their divergence of views became so fundamental that real co-operation was impossible.

After the President, Lansing, and House, the other American commissioners were General Tasker H. Bliss and Mr. Henry White, a Republican with considerable diplomatic experience. House and General Bliss were already in Europe. The others sailed on board the *George Washington*, December 4, 1918, and ten days later were in Paris. Not for a month, however, did the peace conference organize and get down to business. Just what private conferences were held and what vital decisions reached by leading statesmen in the interim is not certainly known. Certain it is, however, that the first formal meeting of the representatives of the great powers took place on Sunday, January 12, 1919.[194] Present at this meeting were the "Heads of States" and Foreign Ministers of the United States, Great Britain, France, and Italy. Its organization, says Professor Clive Day, "followed the model of the Supreme Interallied War Council that had been acting on matters of military policy at Versailles during the last part of the war."[195] Next day, January 13, 1919, by admitting two representatives from Japan, the group became the Council of Ten, which until the middle of March was recognized as the ruling body of the peace conference.

The concentration of power in the Council of Ten was in accord with the wishes of the French Premier, Clemenceau, who would have left all decisions to the representatives of the five great powers. At the other extreme stood Secretary Lansing, who would have made the peace conference a democratic body in which every nation of the Allied group would have had an equal voice.[196] The plan actually adopted was a compromise between those of Lansing and Clemenceau and embodied more nearly the views of the President.[197] The real power at the conference was centred in the Council of Ten, but this body at one of its early meetings called into being the Plenary Assembly, comprising all the powers at war against Germany (including the new states of Poland, Czecho-Slovakia, and Hedjaz), with representations varying from one to five delegates each.[198] This body, in which all decisions must be by unanimous vote, could be pointed to with pride as a democratic organization of the belligerents. In reality it did little more than rubber-stamp the decisions reached in the Council of Ten or its successor, the Council of Four. The Council of Ten, writes Professor Day, "called the Plenary Assembly into being, regulated the activities, and when it saw fit reviewed the action of that body. It created commissions to study special subjects in detail and prepare them for the consideration of the Conference. It had to face the questions of fact and policy that rose constantly in central and eastern Europe."[199] The plenary conference held only six meetings, at the second of which "an attempt of the Small Powers to assert their rights was nipped in the bud."[200]

That this centralization of authority in the hands of

the five great powers was contrary to Secretary Lansing's ideas has already been indicated. To his mind the Council of Ten was an "autocratic oligarchy," and while he admitted that this form of organization had practical advantages, he felt that it had put the conference on much the same plane as the Congress of Vienna.[201]

With the conference thus organized, the next desideratum was a program of procedure. Acting in accordance with what a French diplomat termed "the systematized constructions of the Latin mind," the French had their program ready weeks in advance of the assembling of the conference,[202] but inasmuch as this plan postponed the consideration of the League of Nations until after the disposal of territories, indemnities, etc., President Wilson would have none of it. Mr. Lansing devotes a chapter of some length in his book on the *Peace Negotiations* to the complaint that the American delegation had no program prepared in advance, which all members of the American delegation might have understood and by which they might have been guided in working out the various portions of the treaty. If the President had a program, says Mr. Lansing, other than the principles of the Fourteen Points and "subsequent addresses," he did not show a copy to the commissioners or advise them of its contents. Apparently he had never worked out in detail the conclusions of his declared principles. "Without authoritative explanation, interpretation, or application to actual facts they formed incomplete and inadequate instructions to Commissioners who were authorized 'to negotiate peace.'"[203]

Mr. Ray Stannard Baker, on the other hand, maintains that the President had all the program that was

necessary; he had laid down, in the addresses which the world had accepted as containing the basis of peace, certain general principles of justice; he had provided, in the commission of inquiry organized by Colonel House in 1917, a corps of experts—geographers, ethnologists, economists, and the like—whose business it was to learn the facts bearing on the various problems before the conference. The facts being known, it remained only to apply the principles. "This," says Mr. Baker, "*was* his programme."[204]

It is further pointed out by Mr. Baker that President Wilson did present to the Council of Ten a list of subjects in the order in which they should be taken up, which had been prepared at his request by the American commissioners.[205] But this was hardly a program in the sense in which Mr. Lansing used the term; it was a mere outline of subjects for discussion, and even that outline, as the President explained, he would not wish to see rigidly followed. To Mr. Lansing it seemed imperative that there should be some sort of detailed guide for the American delegates and their following, either an outline treaty or a memorandum containing definite declarations of policy on the problems presented. Otherwise the delegates might find themselves working at cross-purposes with each other or with the President. Prior to the departure from the United States and for two weeks after the arrival in Paris he expected that the President would have such a *projet* prepared; but the President did not do so, and when he talked with the commissioners, it was almost wholly about the proposed League of Nations.

Mr. Lansing accordingly resolved to take things into his own hands. On January 10, at a conference of the

American commission, he let it be known that David Hunter Miller and James Brown Scott, legal advisers of the commission, were at work, at his suggestion, on a skeleton treaty and had made a tentative draft. At this the President showed evident displeasure and remarked "that he did not propose to have lawyers drafting the Treaty."[206] With this remark the Secretary's efforts to prepare a program came to an abrupt end.

Program or no program, the Council of Ten found ways of getting business attended to, most notably by the appointment of special commissions to study specific questions and report not only their conclusions but draft articles for the treaty. It has been estimated that there were, all told, fifty-two such commissions appointed by the council before the treaty with Germany was signed, and that they held altogether 1646 sessions. Though attracting little notice, these commissions of experts exerted great influence, for oftentimes they had not only to ascertain the facts, but to decide questions of policy as well. Out of their draft articles the treaty was built. "Only in rare cases were amendments or additions made by some superior organ of the Conference."[207]

The two commissions which deserve our special attention are that on the League of Nations, on which sat President Wilson and Colonel House, and that on responsibility for the war, headed by Secretary Lansing.

On no subject before the peace conference was there a wider divergence of views between the President and the Secretary of State than on that of the League of Nations. They differed, first, as to the importance of such a league. The President, says Mr. Baker, "had two great

central and basic convictions: that a league of nations was necessary; that it must be brought into immediate existence."[208] To the Secretary the proposed league was a matter of minor importance. The great need, in his mind, was an immediate conclusion of peace, in order that Europe might resume its normal economic life. "Compared with it," he wrote, "the creation of a League of Nations was insignificant and could well be postponed."[209] Thus Mr. Lansing favoured a preliminary treaty that should make peace and leave the creation of a league to later negotiations, in which the neutrals of the world should participate, while the President was intent upon seizing the golden opportunity afforded by the peace negotiations for writing the covenant of the league into the basic treaty of peace. Those who agree with the President as to the importance of the league can hardly deny that his strategy was correct.

But Mr. Lansing was no less in disagreement with the President about the details of the league covenant. Lack of space forbids us to trace in detail the development of the league plan in President Wilson's thought. In August 1917 he had thought that a society of nations "would of necessity be an evolution rather than a creation by formal convention."[210] In the Fourteen Points address, of January 8, 1918, he had stated that "a general association of nations must be formed under specific covenants." During the summer of 1918 Colonel House worked over for him a British draft for a covenant known as the Phillimore Report. Colonel House's draft was in turn remodelled by the President in July 1918, and in this draft were later incorporated suggestions from various sources, notably from General Smuts and

from several members of the American group in Paris. Finally the President's last draft was combined with another British draft, the two being worked together by Mr. D. H. Miller of the American delegation and Mr. C. J. B. Hurst of the British, into the document presented to the League of Nations commission, February 3, 1919.[211]

In preparing his plans for the league the President at no time invited advice or suggestion from the Secretary of State, nor did he take the latter into his confidence as to the nature of those plans. A general idea of them Lansing gained from House in September or October 1918; beyond that his only opportunity of knowing what was in the President's mind came in the course of an hour's conversation with him on board the *George Washington* in December, in which the President showed nothing in writing, but explained enough to convince Lansing that the proposed organization was along lines he could not approve.[212]

The details of the President's plan to which Lansing took most serious exception were (1) the mutual guaranty of territorial integrity and political independence, eventually embodied in Article X of the covenant, (2) the subordination of the judicial to the political element in the organs of the league, (3) the preponderance of the great powers. In a letter to the President, of December 23, 1918, and in a memorandum handed him in a conference of January 7, the Secretary sought to make suggestions that should overcome these defects. Most important of these suggestions, perhaps, was his proposal of a "negative guarantee" in place of the affirmative guaranty eventually written into the covenant. According

to the Lansing proposal, the members of the league would agree not to violate each other's territorial integrity or political independence, with the provision that any violation of that pledge should automatically abrogate all treaties and conventions between the offending power and other signers of the covenant.[213] Other proposals were for an international council, to consist of one representative for each member of the league; a supervisory committee of five, chosen for two years by the international council; machinery for conciliation and arbitration and for publicity of treaties and agreements; and equality of commercial privileges for all members of the league. The essence of his plan Mr. Lansing characterizes as "Hands Off," "Open Door," and "Publicity," to which we might add "Equality of Sovereign States."[214]

Lansing's letter of December 23, says Mr. Baker, "lies in the [President's] file almost as fresh and unhandled as when the Secretary appended his signature."[215] The memorandum of January 7 the President received courteously and smilingly, but never referred to. He believed, wrote Lansing later, that the President read the proposals "and realized that they were wholly opposed to the theory which he had evolved, because from that time forward he seemed to assume that I was hostile to his plans for a League of Nations."[216]

Mr. Lansing urged his arguments against an affirmative guaranty upon Colonel House. His belief that he converted House is borne out by the fact that David Hunter Miller, law partner of House's son-in-law and secretary, suggested to the President a modification of the covenant almost identical with that proposed by Lansing. Bliss and White, Lansing says, also agreed

with him on this point, so that apparently the President stood alone on Article X, which he later characterized as "the heart of the covenant."[217] It is doubtless idle to speculate upon what might have happened if Lansing's proposal had been accepted, yet it is well known that the opposition to the treaty in America centred largely upon Article X of the covenant. The adoption of the Lansing substitute would certainly have weakened the opposition in the Senate.

After making the suggestions outlined above, Lansing for the most part abstained from further efforts to influence the drafting of the League of Nations covenant. That was left to Wilson and House, the American members of the League of Nations commission. Lansing did offer objections, chiefly legal, to the proposed system of mandates for former enemy colonies (a detail contributed by General Smuts), but these were brushed aside by the President as "mere technicalities."[218]

The second plenary session of the peace conference, on January 25, 1919, resolved to make the covenant of the league "an integral part of the general treaty of peace." The League of Nations commission, in ten sessions from the 3rd to the 13th of February, worked over the plan prepared by Miller and Hurst from the American and British proposals, and on February 14 presented its report to the third plenary session of the conference. On the evening of the same day the President left Paris for the United States, where his presence was necessary in the closing days of the session of Congress. During his absence Lansing and House were to sit on the Council of Ten.

It has been stated by Mr. Ray Stannard Baker[219] that

during the month of the President's absence in the United States an effort was made by Mr. Balfour and supported by both House and Lansing to side-track the League of Nations by the expedient of putting all other essentials of the peace into a "preliminary treaty," which should leave the setting up of the league to a problematical future conference. That this interpretation was erroneous, that there was no step, conscious or unconscious, towards a betrayal of the President by Balfour, House, or Lansing seems abundantly demonstrated by the material published by Professor Seymour in the fourth volume of *The Intimate Papers of Colonel House*.[220] There is no evidence of such a purpose on the part of any of the three men, nor is there evidence of any change in President Wilson's relations with either House or Lansing after his return to Paris.

It is true that a change now took place in the organization of the conference which relegated Mr. Lansing, with the other foreign secretaries, to a position of secondary importance, but this change appears to have been wholly due to the need of greater speed, secrecy, and informality than could be achieved in the Council of Ten.[221] That body ceased to function. The heads of states, for the purpose of greater secrecy and informality, ceased to attend its sessions and instead met with one another in the Council of Four, or when, as often happened, the Italian Premier was absent, the Council of Three. The Foreign Ministers of the four great powers, and one of the Japanese plenipotentiaries, continued, however, to hold sessions, and their gatherings became known as the Council of Five. This group, says Professor Day, "did useful work as a sort of superior

commission, considering the reports of the commissions which it [i.e., the Ten] had created and transmitting them with its findings to the Four. It bore itself with dignity in a situation which was not agreeable. If the Five did nothing definitive, at least they did it very well."[222] Something of the relative importance of the several councils may be inferred from the statement that the Ten held seventy-two sessions, the Five held thirty-nine, and the Four held one hundred and forty-five.[223]

As previously stated, Secretary Lansing was made chairman of the commission on the responsibility of the authors of the war and on enforcement of penalties. This commission, created at the plenary session of the conference on January 25, 1919, was composed of fifteen members, two from each of the great powers and five elected from among the small powers specially interested. It made its report on March 29, 1919.[224] It found that "the war was premeditated by the Central Powers together with their allies, Turkey and Bulgaria, and was the result of acts deliberately committed in order to make it unavoidable"; that Germany and Austria-Hungary "deliberately worked to defeat all the many conciliatory proposals made by the Entente Powers"; that the neutrality of Belgium and Luxemburg was deliberately violated, and that the Central Powers had conducted the war "by barbarous or illegitimate methods in violation of the established laws and customs of war and the elementary laws of humanity." It held that "all persons belonging to enemy countries, however high their position may have been, without distinction of rank, including Chiefs of States, who have been guilty of offences against the laws and customs of war or the laws of

humanity, are liable to criminal prosecution," and recommended the creation of a high tribunal to try cases not belonging clearly to one member of the Allied group.

This report had two principal objects: first, by fixing the full responsibility for the war on the Central Powers, to justify the collection from them of as much as possible of the cost of the war under the name of reparations; second, to make possible the fulfilment of election pledges of Lloyd George and other Allied statesmen by establishing a procedure for trying the Kaiser.

The American members of the commission, Secretary Lansing and Dr. James Brown Scott, were in only partial agreement with the report. They signed it, but appended reservations.[225] They took exception to the inclusion of violations of the laws of humanity among offences to be judicially punished, on the ground that such laws had no official definition or standing. They objected to the proposal to try chiefs of states as a procedure in violation of the sovereignty of the states concerned and without precedent in modern international practice.

On the question of war guilt, however, the Americans not only concurred with the commission's report, placing undivided responsibility on the Central Powers, but adduced additional evidence to show the unprovoked character of the attack on Serbia. This evidence was in the form of two sentences from a report made by an Austrian, Herr von Wiesner, who had been charged with investigating the assassination of the Archduke Franz Ferdinand at Sarajevo. Dated at Sarajevo, July 13, 1914, the report stated: "Cognizance on the part of the Serbian Government, participation in the murderous assault, or in its preparation, and supplying the weapons,

proved by nothing, nor even to be suspected. On the contrary, there are indications which cause this to be rejected."[226]

The accuracy of the picture here presented of Austria making war on Serbia when in possession of evidence exonerating the Serbian Government of all blame for the assassination has been called in question by the results of subsequent research; notably by the discovery that other portions of von Wiesner's report held the Serbian Government responsible for Pan-Serbian propaganda in Bosnia and charged that the Sarajevo assassins had used bombs taken from Serbian army stores and had been assisted from Serbia into Bosnia by Serbian officers.[227] In fact, the whole theory of a war coldly premeditated by the Governments of Germany and Austria-Hungary has been rather thoroughly discredited by the work of such reputable English and American historians as G. P. Gooch, Sidney B. Fay, Harry Elmer Barnes, and numerous others.

The commission's report, however, bore fruit in Article CCXXXI of the peace treaty, in which Germany acknowledged (under duress) full responsibility for the war, and through that became in part the basis for the reparations settlement. The proposal for the trial of the Kaiser by an international tribunal was also incorporated in the treaty and agreed to by Germany, but was balked by the refusal of the Dutch Government to surrender the ex-royal fugitive.

As work on the treaty neared completion, Secretary Lansing found himself increasingly opposed to its spirit and many of its provisions. Throughout the conference he had objected to the air of secrecy in which the negotiations were conducted. On one occasion he had

protested to the President against his secret conferences with European statesmen, but the apparent effect of the protest was only to deepen Wilson's distaste for Lansing's advice.[228] The grasping spirit displayed by the great powers seemingly came as a shock to the Secretary, whose experience in international affairs, one would think, would have familiarized him with national selfishness. At any rate, he felt that the great powers were succeeding in dividing between them the spoils of war with scant regard for the rights or interests of weaker states.[229]

The reparations settlement met with Lansing's strong disapproval, not because he doubted that Germany deserved punishment, but because he considered it utterly impracticable—"simple madness"—to attempt to enslave a nation of seventy million people for two generations. That course, he thought, might drive Germany into Bolshevism and an alliance with Russia. He believed that both French and British statesmen recognized the fatuity of the course they were following, but that they feared to reveal to their people that their extravagant promises could not be kept.[230]

The Shantung settlement was another matter on which the Secretary could not endorse the President's course. On April 30, 1919, under long continued pressure from Japan, the Council of Four consented that Germany's economic rights in the Shantung peninsula should be transferred to Japan, not restored to China, as that country asked and the United States wished. Japan based her claim upon the secret understandings of 1917 with England, France, and Italy. She embarrassed the opposing American delegation by pressing for a recogni-

tion of racial equality in the league covenant, and finally by threatening not to enter the league unless her claims were recognized. It was this threat, apparently, that brought President Wilson round. He sent word to the disappointed Chinese delegation that he had had to yield "in order *to save the League of Nations.*"[231] Lansing's attitude towards the question is indicated by a memorandum made at the time, in which he said: "Frankly my policy would have been to say to the Japanese, 'If you do not give back to China what Germany stole from her, we don't want you in the League of Nations.' "[232] He later told the Senate Foreign Relations Committee that he believed the Japanese were bluffing and would have joined the league anyway.[233]

Lansing was also opposed to the treaty of alliance by which the United States and Great Britain agreed to support France if she was attacked by Germany. When this was first proposed, he noted his impression that the idea "is preposterous and would be laughed at and rejected" in the United States.[234] Later, although he continued to disapprove it, he admitted that he could see some arguments in its favour. He believed the President had agreed to it in order to secure French support for the covenant "and to check the disposition in certain quarters to make the League of Nations essentially a military coalition under a general international staff organized and controlled by the French."[235] Eventually Lansing had the treaty drafted by James Brown Scott, and on June 28, 1919 he affixed to it his signature below that of the President. Needless to say, this treaty was never ratified by the Senate.

The stories of Shantung and the proposed triple alliance

illustrate the true difference between the attitudes of Wilson and Lansing. On concrete questions in the peace settlement there was no great difference. In fact, on such matters as boundaries, reparations, and the military and industrial terms to be imposed on Germany, the whole American delegation stood for reasonable and just terms against the European statesmen who would exact the full measure of a victor's peace.[236] But the President had faith in the League of Nations; Lansing had none. To secure the league the President would pay a price, even at an admitted sacrifice of justice on specific points; Lansing would not purchase the league at any price. Finally, the President looked upon the league as an agency through which specific faults in the treaty might be removed or mitigated; Lansing held no such belief in the league's efficacy.

That two men of such divergent views on fundamentals as Wilson and Lansing should have been associated in an enterprise of such vital importance as the making of the Treaty of Versailles was, to say the least, a misfortune. It is apparent now, and would probably have been admitted by Mr. Lansing himself, that President Wilson should not have taken him to Paris. That this fact was not apparent in November 1918 must be ascribed to the lack of a free interchange of views upon peace-terms between President Wilson and his advisers in the closing months of the war.

Why Mr. Lansing did not resign in Paris after his disagreements with the President became obvious, he himself has recorded. "On my part," he writes,[237] "the chief reason for leaving the situation undisturbed was that I was fully convinced that my withdrawal from the Amer-

ican Commission would seriously delay the restoration of peace, possibly in the signature of the Treaty at Paris and certainly in its ratification at Washington." To him, in other words, even a peace as bad as he believed that of Versailles to be was better than no peace at all, and rather than take a step which might prolong the regime of semi-military conditions existing under the armistice, he swallowed his scruples and signed what he considered, in the words of Henry Clay on a former occasion, "a damned bad treaty."

Likewise, though for different reasons, the Germans. On June 28, 1919, in the Hall of Mirrors at Versailles, the peace treaty, including the Covenant of the League of Nations, was signed by the accredited delegates of thirty-two nations. China alone, refusing to accept the injustice of the Shantung settlement, withheld her signature.

CHAPTER XI

THE BREAK WITH PRESIDENT WILSON

ON the same day that witnessed the signing of the Treaty of Versailles (June 28, 1919), President Wilson left Paris for America. It was understood that Lansing would remain as head of the American delegation, but on July 1 it was announced in Paris that he too would soon return to the United States. Rumours that he had been recalled by Wilson flew about, but in an address to representatives of the French press before his departure the Secretary explained that his presence in Washington was made necessary by the heavy work facing the Department of State.[238]

Lansing sailed from Brest on July 14 and landed in New York eight days later. In the United States he exerted himself to bring about the ratification of the treaty by the Senate. On the one hand, he advised the President to come to an agreement with the "mild reservationists"—the only course by which he believed a two-thirds majority could be secured. On the other hand, in numerous public addresses, he urged that the treaty be ratified. In August he was called before the Foreign Relations Committee of the Senate, which questioned him about the making of the treaty. Except in regard to the Shantung settlement, his testimony revealed very little of the difference in view-point between himself and the President.[239]

Another of the committee's witnesses, however, gave information that embarrassed Mr. Lansing and that

necessarily widened the rift between him and the President. Mr. William C. Bullitt, one of the "experts" formerly attached to the American delegation, had resigned that position because of his disapproval of the treaty and the methods by which it was made. Called before the Senate Committee on September 12, 1919, Mr. Bullitt gave to the committee and to the public, voluntarily and upon his own initiative, his version of a confidential conversation with Mr. Lansing in Paris during the preceding May. He represented Mr. Lansing as saying that he "considered many parts of the Treaty thoroughly bad, particularly those dealing with Shantung and the League of Nations," and that he considered "that the League of Nations at present is entirely useless"; and in addition as making the statement: "I believe that if the Senate could only understand what this Treaty means, and if the American people could really understand, it would unquestionably be defeated, but I wonder if they will ever understand what it lets them in for."[240]

When the Bullitt statement was published, the President was on his speaking-tour in the West urging ratification of the treaty. Mr. Lansing promptly telegraphed him, giving his own version of the conversation with Mr. Bullitt and offering to make it public if the President desired him to do so. He had admitted to Bullitt, he said, that certain features of the treaty were bad, but had added that "that was probably unavoidable in view of the conflicting claims and that nothing ought to be done to prevent the speedy restoration of peace by signing the Treaty. Bullitt then discussed the numerous European commissions provided for by the Treaty on which the United States was to be represented," the

Secretary added. "I told him that I was disturbed by this fact because I was afraid the Senate and possibly the people, if they misunderstood this, would refuse ratification, and that anything that was an obstacle to ratification was unfortunate because we ought to have peace as soon as possible."[241]

It is obvious that the attitude towards the treaty revealed by this statement is quite different from that suggested by the Bullitt version, and is quite in harmony with what we have already seen of Lansing's opinion of the treaty. The Secretary's offer to publish his own account, however, was never answered or even acknowledged by President Wilson. In fact, according to the account of the President's private secretary, Mr. Tumulty, Wilson regarded Lansing's telegram as confirming his suspicion of Lansing's disloyalty. "Read that," he is reported to have said, "and tell me what you think of a man who was my associate on the other side and who confidentially expressed himself to an outsider in such a fashion. Were I in Washington, I would at once demand his resignation."[242] Mr. Tumulty believes that "only the President's illness a few days later prevented an immediate demand on his part for the resignation of Mr. Lansing."

On September 25, 1919, after delivering a speech in behalf of the treaty and the league at Pueblo, Colorado, President Wilson suffered the paralytic stroke that left him for many months a bedridden and almost helpless invalid. In the months between the President's breakdown and Mr. Lansing's resignation, in February 1920, the latter enjoyed somewhat more independence than formerly in shaping the Government's foreign policy.

While the Senate's debates on the Treaty of Versailles held the centre of interest, relations with Mexico and Russia called for important decisions from the State Department.

Towards Mexico, now that the European struggle was over, the United States adopted a noticeably firmer tone, which was apparent before Wilson's break-down. On August 1 the President had transmitted to the Senate a report on relations with Mexico prepared by Lansing, showing that since the fall of Diaz in 1911, 217 American citizens had been killed in Mexico, while American claims for property damage totalled over twenty-six millions of dollars. The report also complained that the Carranza Government was attempting to give a retroactive character to Article XXVII of the Constitution of 1917. Two weeks later Lansing announced that the Mexican Government had been warned that if American lives should continue unsafe in Mexico, the United States Government might "be forced to adopt a radical change in its policy with regard to Mexico."[243] In November the American consular agent at Pueblo, Mexico, W. O. Jenkins, after being kidnapped by bandits and ransomed, was arrested by Mexican authorities on charges of collusion with his former captors. Failure to heed Lansing's first demand for his release led to the issuance of an ultimatum, on December 1. Three days later Lansing advised the Senate Foreign Relations Committee to delay action on a resolution of Senator Fall calling for a severance of diplomatic relations until it could be learned what Mexico would do in the Jenkins case. Next day (December 5) he announced that Jenkins had been released. With this concession on Carranza's part the crisis passed.[244]

With regard to Russia, the Secretary opposed any agreement or compromise with the Soviet Government, but was equally unwilling to recognize any other group professing to speak for Russia without substantial evidence that they really represented the Russian people. He firmly resisted pressure from both without and within the State Department for the recognition of the Kolchak Government in Siberia, and he declined to recognize the independence of Lithuania on the ground that "it has been thought unwise and unfair to prejudice in advance of the establishment of orderly, constitutional government in Russia the principle of Russian unity."[245]

During the fall and early winter of 1919–1920, while the President lay ill in the White House, the Cabinet met from time to time at the call of the Secretary of State without the President's authorization. The summoning of the first meeting was the outgrowth of an apprehension, in circles very close to the President, that unless there was evidence that the Executive was functioning, Congress might insist upon investigating the President's condition and perhaps upon installing Vice President Marshall in his place. The call for the meeting was issued only after Mr. Lansing had conferred with Secretaries Baker and Lane, who agreed that it was both proper and necessary.[246] From the date of the first meeting, October 6, 1919, to the early part of February 1920, the Cabinet met twenty-five times. On more than one occasion memoranda of important discussions or decisions were sent to the President and brought no hint that he disapproved of the meetings. On February 10, 1920, however, Lansing informed the members of the

Cabinet that he had a letter from the President in which the latter objected to the calling of Cabinet meetings except at his personal summons, and that there would be no further meetings unless called by the President.[247]

Three days later (on the evening of February 13, 1920) the State Department gave out the announcement of Mr. Lansing's resignation, together with the correspondence leading up to it.[248] In a letter of February 7 the President had inquired whether it was true that during his illness the Secretary had called the heads of the executive departments into conference—an act which, so the presidential missive contended, none but the President had the constitutional authority to perform. In his reply, dated February 9, the Secretary of State admitted that he had, as the ranking member of the Cabinet, called the heads of departments to meet in informal conference on interdepartmental matters and others upon which action could not be postponed until the President's recovery. He denied all thought of acting unconstitutionally or of assuming powers belonging to the President alone, and concluded with an offer to resign if by so doing he would relieve the President of embarrassment.

The President's reply, dated February 11, after condemning the Secretary's action in calling the Cabinet together as "assumption of Presidential authority," passed to broader matters. This affair, he said, merely deepened a feeling that had been growing upon him. "While we were still in Paris, I felt, and have felt increasingly ever since, that you accepted my guidance and direction . . . only with increasing reluctance." Therefore the President would be relieved, he said, "if you would give your

present office up and afford me an opportunity to select some one whose mind would more willingly go along with mine."

Mr. Lansing's response was, on February 12, to tender his resignation, to take effect at the President's convenience. He added that he had desired to take that step since January 1919, when, as he said, he became conscious of the fact "that you no longer were disposed to welcome my advice in matters pertaining to the negotiations in Paris, to our foreign service, or to international affairs in general." He had remained in office contrary to his wishes, he said, because he felt that his resignation would be misinterpreted and would embarrass the President in the peace negotiations, and later in his fight for ratification of the treaty. He would now leave the office "with a sense of profound relief."

The President accepted the resignation next day (February 13, 1920), "to take effect at once."

To those initiated in the history of the peace conference it will be evident that Lansing's calling of Cabinet meetings was merely the excuse seized by the President to bring about his resignation. Lansing's independent way of handling the recent Mexican crisis may have contributed to the President's determination, but for the real cause we must look back to the Bullitt revelations, and through those to the disagreements at Paris.

Upon the manner of Lansing's going, the opinion of press and public was overwhelmingly on the side of the Secretary.[249] The surprising asperity of Wilson's letters was in general interpreted as due to the petulance of a sick man. Leaders of both parties, like Taft and Redfield, came forward in defence of the Secretary's course in calling Cabinet conferences.

But on the more vital question of the propriety of Mr. Lansing's remaining so long in the Cabinet despite his disagreement with Wilson on matters of fundamental importance there was, and is, a wider divergence of opinion. Secretary Houston thought it plain that Lansing should have resigned long before. The author of *The Mirrors of Washington* thought Lansing should have resigned when the President decided to go to Paris in spite of Lansing's advice to the contrary, and he attributed his failure to do so to his attachment to the joys of office. Both of these opinions were written after Lansing's *Peace Negotiations* had revealed the full extent of his disagreements with the President. Even at the time of the resignation the New York *World* thought it doubtful whether the Secretary, in waiting until his resignation was requested, had "conferred any benefits upon himself or the President or the country."[250]

Mr. Lansing's own defence of his retention of office we have seen in a previous chapter. Quite out of sympathy with many of the details of Wilson's work at Versailles, he remained with the delegation and signed the treaty because of the belief that to do otherwise would interrupt the negotiations and delay the restoration of peace, and he thought the Treaty of Versailles far better than no treaty at all. After his return to the United States he urged the ratification of the treaty by the Senate for the same reason. In this attitude he appears to have been sincere and consistent. The position in which it placed him was no enviable one. "He has been in a situation," said the Baltimore *Sun*,[251] "where to resign his office would have seemed disloyal and where to continue in it inevitably invited some such denouement as this." We

can well believe that he laid down his duties, as he said in his letter of resignation, "with a sense of profound relief."

After severing his connexion with the Department of State Mr. Lansing resumed the practice of international law as a profession. His resignation was followed after a few weeks by that of Mr. Lester H. Woolsey, who had been since 1913 connected with the Department of State, and who now became a member of the law firm of Lansing and Woolsey. Establishing offices in Washington, not more than a stone's throw from the building where both had for so many years served the United States, Messrs. Lansing and Woolsey became the legal and diplomatic advisers of several foreign governments, among them being China, Finland, and Persia, and in 1923 were employed as counsel for Chile in the Tacna-Arica arbitration. Outside the field of his profession Mr. Lansing's activities and interests were numerous. Finding amusement and recreation in sketching, in occasional versifying, in golf and baseball, he displayed his more serious side in lifelong religious and humanitarian work. A member and elder of the Presbyterian Church, he was in 1920 made a member of the executive committee of its General Assembly. In the previous year he had been elected chairman of the general committee of the Interchurch World Movement in North America. He was also an incorporator of the American Red Cross, a vice-president and trustee of the Carnegie Endowment for International Peace, and a president of the Archæological Society of Washington. The close of a busy life occurred on October 30, 1928 at his Washington home after a month's illness.

Of Mr. Lansing's delightful qualities as a cultured gentleman and of his disinterested patriotism as a public official there is abundant testimony from those who knew him. No one can be better fitted to speak of the qualities he displayed as Secretary of State than Colonel House, who recently wrote of him:[252]

"The country has never quite appreciated Lansing. No other Secretary of State had so difficult a task. The years of neutrality before we entered the war presented many delicate and intricate situations, and a false step might have proved disastrous. He made none.

"I shall always remember with gratitude his attitude toward me. My position was unusual and without precedent, and it would have been natural for him to object to my ventures in his sphere of activities. He never did. He was willing for me to help in any way the President thought best.

"The country owes Lansing much and some day I hope appreciation may be shown for his services during the perilous days of the Great War."

BAINBRIDGE COLBY

SECRETARY OF STATE

MARCH 23, 1920, TO MARCH 3, 1921

BY

JOHN SPARGO

BAINBRIDGE COLBY

FROM A PORTRAIT BY DOUGLAS VOLK

Bainbridge Colby

BAINBRIDGE COLBY

CHAPTER I

PERSONAL AND POLITICAL BACKGROUND

WHEN President Wilson named his friend Bainbridge Colby to be Secretary of State in succession to Robert Lansing, all those who were familiar with the mentality and temperament of the President and had followed with reasonable care the political developments of the years immediately preceding, recognized in the appointment a degree of naturalness amounting almost to inevitability. In his letter of February 20, 1920 requesting Secretary Lansing's resignation the President had expressed a desire for "opportunity to select some one whose mind would more willingly go along with mine."[1] Although it called forth much severe criticism at the time, that desire was perfectly legitimate and in full consonance with the constitutional duties of the office of President, as Mr. Lansing, with characteristic candour, freely admitted.[2]

The President's desire for a Secretary of State whose political ideals and ideas would approximate identity with his own is quite understandable, and requires no psychological hypothesis to explain it. Constitutionally charged with sole responsibility for conducting the foreign relations of the Republic, he had encountered

serious opposition on matters of fundamental importance, first from Secretary Bryan and later from Secretary Lansing. Whether the President or his Secretaries had the better understanding of the matters concerning which they differed is wholly immaterial. His was the duty and responsibility of decision. He had an unquestionable right to insist upon the strength that comes from support rooted in whole-hearted agreement. Acceptance of this view is not inconsistent with the suggestion made by another member of his Cabinet, Secretary Houston,[3] that the President wanted as Secretary of State a man of vigorous intellect and positive convictions who would match wits and contest intellectual conclusions with him. It does not require acceptance of the view that President Wilson desired his Secretary of State to be intellectually colourless and negative.

It is doing the Great War President simple justice to say that he welcomed candid and sincere criticism and the keenest challenge of his intellectual judgments, when he was satisfied that the criticism and the challenge were not motivated by antagonism to his fundamental ideals and purposes, but were the product of serious thinking by minds as loyal to those ideals and purposes as his own. Given assurance of that identity of conception and aim as a common ground, he welcomed with eager zest the opportunity to match wits in intellectual discussion and to argue for his views. Tenacious as his mind unquestionably was, he was intellectually receptive and open to conviction. He had the integrity of mind that is the basic equipment of the scholar. If he was impatient at opposition, he was no less impatient at easy acquiescence, whether arising from mental indolence, timidity,

or political prudence. He was wholly consistent in his avowal that he wanted a Secretary of State of aggressive mentality, who would challenge him to intellectual encounter and compel him to justify his conclusions, while, at the same time, he was dismissing Secretary Lansing for his critical attitude. Rightly or wrongly, he believed that Mr. Lansing's criticisms arose from antagonism of conceptions and aims; that they were designed to frustrate and defeat the ends he sought to achieve. Such criticism he logically and consistently regarded as being quite different from the criticisms of friends whose loyalty to the purposes he sought to accomplish he could not question, criticisms born of that loyalty to his and their common aims. Unless we recognize and admit the validity of this distinction, there must be an end of useful efforts to evaluate his or any other notable statesmanship.

President Wilson's choice of a successor to Mr. Lansing was made partly because he felt the need of the stimulus of an intellect that he held in high respect, and partly because he keenly felt the need of co-operation and help. He was a "wearied Titan," and his Atlantean load, too heavy to be borne, must perforce be shared. He who was to be trusted with any important part of that load, as infinitely precious as it was intolerably heavy, must be wholly trustworthy and above suspicion of holding any mental reservations. The President was convinced that, to a greater extent than any other man in public life known to him and available, Bainbridge Colby met the requirements which had formed themselves into a pattern in his mind. "I know of no public servant whose attitude and ability I more admire than your own," he had

written to Colby more than a year before. Even earlier than that, in a conversation with the present writer, the President had said: "I do not know a man in our public life whom I admire more than Bainbridge Colby, or one whose intellectual standards and political ideals are more closely akin to my own." He spoke with high admiration of Colby's "courageous leadership in 1916." There can be no doubt that he looked upon that leadership as one of the principal factors in his second election. Linked to his sincere admiration of Colby's intellectual qualifications, therefore, was no small measure of gratitude. President Wilson knew that the political generalship which rallied the dismayed and scattered Progressive forces under the Democratic standard in the campaign of 1916 was one of the most important causes of his reelection, if not the most important.

The necessary limitations of this essay do not permit a detailed biographical record. All that is possible is a mere sketch, indicating, as a background, the main features of Bainbridge Colby's career. His father, John Peck Colby, a lawyer, was an officer in the Fifty-ninth Regiment of New York during the Civil War, who settled in St. Louis, Missouri, soon after the war and attained prominence as one of the leading lawyers of the state. His mother, *née* Frances L. Bainbridge, was a descendant of the famous commodore. Born in St. Louis, December 22, 1869, Bainbridge Colby graduated from Williams College in 1890. He then studied law at Columbia University and the New York Law School, receiving the degree of LL.B. from the latter institution in 1892. He entered at once upon the practice of his profession and rapidly achieved an enviable measure of distinction

and success. One of his earliest clients was Samuel L. Clemens—"Mark Twain"—and a delightfully intimate friendship developed from that association.

Following in his father's footsteps, young Colby early identified himself with the Republican party, and was made the leader of the electoral district in New York City in which he resided. In 1901 he was elected to the legislature of New York. After serving a single term he declined renomination and devoted himself to his profession, appearing in many cases of national importance and interest. His share in the split of the Republican party and the creation of the Progressive party, in 1912, first brought him into prominence in national politics. He was intimately associated with Theodore Roosevelt and others in the fight that was waged in the Republican national convention in 1912, and was placed in charge of the contests to seat the Roosevelt delegates. Joining the revolt, he helped to launch the Progressive party. It is not generally known that he wrote the famous manifesto *The Stolen Nomination*,[4] which did so much to alienate Progressives from the old party and align them under the standard of the new one. He was a delegate to the first Progressive party convention, which nominated Roosevelt, and in the campaign he made a nation-wide tour. With the single exception of Roosevelt himself, he was the most popular campaign orator of the party and attained a personal following in the Progressive ranks that was destined to have important and far-reaching results. As subsequently appeared, the influence he thus acquired was to enable him to challenge Roosevelt's leadership of the party four years later.

Resisting all efforts of the New York Progressives to

nominate him as the gubernatorial candidate of the party in 1912, he remained active in its leadership as one of the much-talked-of "inner circle." Nominated for United States Senator from New York in 1914, he accepted from a sense of duty and loyalty to the Progressives of the country, notwithstanding that the claims of his profession at the time made the nomination most unwelcome. Although it was not then clearly recognized by either of them, it was at this time that Theodore Roosevelt and Bainbridge Colby entered upon divergent paths, the former on the path leading back to the Republican party and the support of Charles E. Hughes in 1916, the latter on the path leading to alliance with the Democratic party and the support of Woodrow Wilson.

The first election of Wilson, in 1912, was the direct result of the split in the Republican party and the independent candidacy of Roosevelt. Wilson had a minority of the total popular vote. It is incontestable that Theodore Roosevelt made Woodrow Wilson President of the United States in 1912. By 1914 it was apparent that the Progressive party would not be a factor of major importance in 1916. Its inherent weaknesses were by this time as apparent as its strength. In the party were two elements which, fortuitously linked together in 1912, were now finding separation inevitable. On the one hand, men who had been dissatisfied with the management of the Republican party, who sought to wield larger influence in its councils or to reap personal rewards from its success, made up what may be termed the professional political element. They accepted the leadership of Roosevelt, whose desire to punish President Taft was blended with purposes of nobler idealism. The other element con-

sisted of men and women who were drawn into the party by those nobler idealistic purposes. To them the party was a sort of crusade for righteousness.

By 1914 it became apparent that a large part of the former element had either returned to the Republican fold or was ready to do so. Roosevelt was of this group. He had satisfied his feeling against Taft by the disastrous Republican defeat in 1912. Now he was ambitious to be President again. There is little doubt that long before 1916—as early as the latter part of 1914 or the early part of 1915—an understanding had been reached between leaders of the Republican party on the one hand, and Roosevelt and some of his Progressive associates on the other. The essence of the understanding was as follows: The Republicans were to give Roosevelt a fair chance to get the Republican nomination in 1916. On his part, Roosevelt agreed not to run as a Progressive if he failed to get the Republican nomination. If nominated by the Republicans, of course, the endorsement of the Progressive party would be certain and welcome. The attacks which he directed against President Wilson, especially during the Congressional year 1913–1914, studied in the light of subsequent events, show very clearly that Roosevelt was far less concerned with the progressive principles and measures which he had championed as leader of the Progressive party than with partisan advantages of prospective advantage to himself as Republican standard-bearer. There was no generous recognition of the considerable body of progressive legislation enacted under Wilson's leadership, but a carping partisanship capable of only one interpretation.

Roosevelt had no intention of becoming the Progressive

standard-bearer in 1916. The party was incapable of playing a major role in the campaign. The national convention of the party was valuable mainly as a club over the Republican leaders. In any event, whether he obtained the Republican nomination or not, Roosevelt hoped and expected to lead the Progressives back to the old party.

Naturally, the idealistic section of the party resented this policy. This section, comprising a large part of the rank and file, rated loyalty to the principles and measures they had espoused higher than electoral success. Fully aware of the attitude and intentions of certain leaders of the other faction, their faith in Roosevelt was unshaken. In retrospect Roosevelt's course appears so plain as to make the faith of these followers seem almost incredible. Little caring for party ties or labels, these earnest men and women would have welcomed the nomination of their idol and leader by the Republican party and would have followed him under the banner of that party in full confidence that his nomination was a triumph of their principles.

When the Republican national convention rejected Roosevelt as candidate, he was nominated by the Progressive national convention, the speech placing him in nomination being made by Bainbridge Colby.[5] That Roosevelt was opposed to being so nominated was well known; that he could be elected on the Progressive ticket none believed. Yet the idealists who forced his nomination never doubted that when so drafted their leader would serve. At a meeting of the Progressive national committee held in Chicago, June 25, 1916, a struggle took place between the two factions in the

party, the outcome of which was destined profoundly to influence the political history not only of the United States, but of the whole world. A letter was read from Roosevelt declining the nomination and strongly urging the Progressive party to give its support to the Republican candidate, Hughes. A bitter fight ensued, the opposition to the policy advised by his erstwhile chief being led by Colby, who revealed himself as one of the most adroit, resourceful, and courageous political leaders of our time. His faction was defeated and the Roosevelt policy approved by a vote of thirty-one to fifteen.[6] It was clear, however, that the bitter fight had split the Progressives and that a large section of that party needed only a leader to make them a menace to the Republican party not to be lightly regarded.

It was inevitable that these dissentient Progressives should look to Bainbridge Colby for leadership. There was a general demand that he be nominated to fill the vacancy on the ticket caused by Roosevelt's declination. That demand he resisted, wisely deciding that he could be more effective if he devoted himself to the task of frustrating the efforts of the Roosevelt faction to get endorsements of the Hughes candidacy by the state, county, and local committees of the Progressive party. He succeeded in this to a remarkable degree, thus preventing the use of the most important part of the party machinery to advance the candidacy of Hughes.[7] Thus far it was a negative policy that he was pursuing.

On June 30, 1916 came the famous dinner of the New York Press Club, with President Wilson as the guest of honour. On that occasion Colby made a speech which was a political sensation. Without committing himself

in any way to the support of the President's candidacy for re-election he spoke in high terms of Mr. Wilson's character and his championship of Progressive measures, assuring him that his course was being sympathetically watched by the Progressives of the country.[8] The speech moved President Wilson profoundly and he left his seat and crossed over to express his thanks to Mr. Colby. That was the first meeting of the two men, the beginning of an intimate friendship, which was terminated only by Wilson's death. Of that speech Woodrow Wilson, himself a great master of English, said to the present writer: "I felt that Colby spoke our tongue as I have vainly striven to speak it; he made me feel anew what a beautiful language we have."

It was already clear that Colby was the recognized leader and spokesman of a great body of independent Progressives who would not blindly follow the titular leaders of their party. They were sufficiently numerous to make their course of action a matter of cardinal political importance. Colby's position as the unofficial, but none the less acknowledged, leader of this force was emphasized by the vigorous criticism he made of the speech of acceptance of Hughes. That criticism, published in the New York *World*, August 2, 1916, might be termed the Progressive indictment of the Hughes candidacy. On the following day at a conference of Progressives held at Indianapolis, attended by representatives from thirty-seven states, it was decided not to hold another national convention or to place a ticket in the field. The time was too short and it was certain that the Roosevelt faction would start legal contests to frustrate any such plan if it was attempted. A manifesto,[9] written by Colby, was is-

sued, flaying the "betrayal" of the party by its trusted leaders and calling upon all Progressives to act in the campaign according to the dictates of their individual minds and consciences. That manifesto, telegraphed to all the leading newspapers of the country, was generally regarded as one of the most important pronouncements in a campaign of extraordinary interest. It arrested whatever tendency to a general return of Progressives to the Republican fold might have existed.

Recognizing the logic of Mr. Colby's position, and the strategic importance of the forces he represented, the Democratic national convention at one of its sessions took what is believed to have been the wholly unprecedented step of inviting an individual to join the party.[10] It is probable that Bainbridge Colby is the only American ever so approached, formally, by the national convention of a major political party. Invited, also, to join the national campaign committee of the Democratic party, he decided that, instead of so doing, he would form an auxiliary committee of Progressives to work with the Democratic national campaign committee in support of Wilson. This he did, and as chairman of that committee was in constant touch with the Wilson leaders at the Democratic headquarters. He made a country-wide tour, speaking in support of President Wilson, largely concentrating his efforts upon the centres where the Progressive party had been strongest.

There can be no doubt that among the factors contributing to the President's re-election the leadership of the independent Progressives by Bainbridge Colby must be given pre-eminent place.[11] This is clearly shown by the fact that Wilson carried those states in which the

Progressives were strongest—Wyoming, Colorado, California, Washington, Montana, and Kansas, for example. That two million independent Progressives voted for the President against the strong urgings of the Roosevelt faction seems certain. That shrewd political observer Senator Murray Crane, of Massachusetts, called Colby "the man that elected Wilson and beat Hughes." That President Wilson himself was keenly conscious of the important part played by Colby in bringing about his re-election is well known to the President's friends. He made no secret of the fact, and at the dinner that he gave at the White House in honour of his campaign directors, Hon. Vance McCormick and Senator Thomas F. Walsh, in December following the election, in calling upon Colby he made a graceful and pointed speech of grateful recognition, not to be misunderstood by any of his hearers.

CHAPTER II

OFFICIAL SERVICE DURING THE WAR

IT was confidently expected that Mr. Colby would be appointed to an important official position in President Wilson's second Administration. It is not a violation of confidence to say that the President desired to have Mr. Colby in his Administration, and that it was by his own choice that Mr. Colby returned to the practice of his profession instead of entering official life at this time. Merely to present an accurate picture, the fact is here recorded that Mr. Colby was offered, and declined, some of the most important offices in the gift of the President.

Early in the summer of 1917 President Wilson found himself compelled to bring about a reorganization of the Shipping Board. With our entrance into the war the problem of ocean transportation was at once seen to be one of the most urgent and vital of all the war problems, and its serious importance grew in proportion as the German submarine-menace grew. England, France, and Italy were feeling the effects of greatly reduced importations. Their man-power was so rapidly absorbed by their armies, their construction and replacement of shipping tonnage so steadily declining, that there could be no doubt that the task of overcoming the ravages of the submarine warfare would have to be assumed, in steadily increasing measure, by the United States. At this critical period, however, serious friction and discord

between the Emergency Fleet Corporation, under General Goethals, and the United States Shipping Board, under Hon. William Denman, caused the President much anxiety. Upon the resignation of General Goethals and Denman he determined upon a reorganization of the Shipping Board and appointed Hon. Edward N. Hurley as chairman. At President Wilson's urgent request Colby became a member of this important board. Leaving his practice, he devoted his whole time and energies to the work of the board. The Shipping Board at this time was responsible for the correlation and direction of a large number of great industrial enterprises. When its program was well under way, there were about a hundred and sixty independent plants in operation under the direction of this body. These plants were scattered along the Atlantic, Gulf, and Pacific coasts and the Great Lake ports. Some four hundred thousand employees were working directly under the Shipping Board, in addition to which number many thousands more were working in private plants under contract with the Shipping Board.

President Wilson was fully aware of the undercurrent of criticism evoked by his appointment of Colby to this important board. He knew well enough that men who were by no means unfriendly to him questioned the wisdom of the appointment of a man whom they regarded as a brilliant orator and political strategist, without executive experience, to a position that called for executive ability more than anything else. "Colby has no superior in mastering complicated and intricate details," said the President, and it was not long before the wisdom of his judgment and choice was generally recog-

nized. When, in the dark and distressful days of December 1917, it became necessary to send an American mission to the interallied war conference that was convened to meet in Paris, to grapple with the most serious problems of the war, President Wilson knew that there could be no noteworthy criticism of his designation of Colby as a member of that mission.

The chairman of the mission was Colonel E. M. House, and there was a representative of each of the major war-services, Colby representing shipping. Owing to the fall of the Ribot Ministry, and the necessity of waiting until Clemenceau could form a new ministry, the House mission, as it was called, was delayed two weeks in England, during the whole of which time Colby was constantly occupied in conference with the leading officials of the British Admiralty and the Ministry of Shipping, and in visiting the great ship-building plants. During this period was held the now famous conference of the British war Cabinet and heads of government departments with members of the American mission. The conference was held at the Prime Minister's house in Downing Street. The British members included the Prime Minister (Lloyd George), Earl Curzon, Viscount Milner, the Right Honourable Bonar Law, Lord Balfour, Lord Robert Cecil, Admiral Jellicoe, General J. C. Smuts, the Earl of Derby, General Robertson, Chief of the Imperial General Staff, Austen Chamberlain, Viscount Reading, and Lord Northcliffe. That it was a gathering of great historic importance is universally recognized. In the room where, a hundred and forty years before, Lord North's Cabinet decided upon the course of action that lost the American colonies to the

crown and changed the whole course of the subsequent history of mankind, Premier Lloyd George in a memorable speech made an urgent appeal to the representatives of the mighty American republic to save the Allied cause.

The strict censorship of the time obscured the significance of that historic gathering. It obscured, too, the notably brilliant manner in which Colby acquitted himself on that occasion. The *procès-verbal* of the conference, first published in 1925,[12] shows clearly with what mastery of detail, coupled with grace of diction, he set before the British statesmen the policy of the United States. This document must always take high rank among the source materials for historians of the World War. Before the Allies could benefit to the full from the assistance of the United States, there were serious obstacles to overcome. Ships were being lost at an alarming rate as a result of the enemy's submarine campaign. To replace these ships and to increase tonnage if possible was imperative if the war was to be won at all. Yet on this important matter, the very pivot of the war effort, there was the most serious divergence between British and American views and policies. To begin with, the American policy was, strangely enough, much more drastic than that of either of the Allied nations with respect to the seizure within territorial waters of neutral ships and their operation. Moreover, the agreements of the Allies with the neutral nations were, from the American viewpoint, far more lenient than the facts warranted.

It is not to be wondered at that the only formal decision made by the conference, the only definite action that was considered, related to this question of shipping. A

special committee, composed of four British and four American representatives, was appointed "to consider and settle the best use to be made of the neutral shipping available to the Allies." That committee, of which Colby was, of course, a member, met the same afternoon, and before night closed, reached an agreement that eventuated later in the creation of the Allied maritime transport council, the organization which overcame the difficulties of supplying the armies in the field and the civil populations. It is not too much to say that the representations of the American mission led to the adoption of the policy which brought the war to a victorious termination.[13]

Later, at the Paris conference, Colby's presentation of our shipping policy was equally successful and won the generous admiration of the representatives of the Allied governments, including the military and naval representatives as well as ministers of state. President Wilson regarded the outcome of these conferences among the leading triumphs of America's war policy.

In December 1918, feeling that he had fully performed the task he had undertaken, Mr. Colby sent his resignation to the President. At the latter's urgent request, however, he continued in office in the active discharge of his duties until the end of February 1919, when the President returned from Paris. Then, finding that Mr. Colby persisted in his desire to be relieved, President Wilson accepted the resignation in a letter of rare charm. "I had intended to look you up when I got to Washington," President Wilson wrote, "but am hurried hour by hour from one thing to another and am driven to write you instead. I wanted to tell you how grieved I

felt at the idea that you must leave your work at the Shipping Board where it has been of the greatest value and assistance to us all, and yet I knew I was bound to add that I had no right to ask you to stay at such a sacrifice as you have been making. . . . This is a very informal way of doing a thing which has, in my mind at any rate, the greatest public importance (for I know of no public servant whose attitude and ability I more admire than your own), but I am doing it in this way just to show you my personal and affectionate regard."

CHAPTER III

AS SECRETARY OF STATE

BAINBRIDGE COLBY became Secretary of State on March 23, 1920. He had been tendered the appointment almost a full month previously, on February 25. The interim had been devoted to the most elaborate investigation of Colby's qualifications and the circumstances attendant upon his nomination, by the Foreign Relations Committee of the Senate. The chairman of that committee, Senator Lodge, declared that the selection of a Secretary of State at that time was "the most important ever made in the history of the country."[14] He explained that, as neither the President nor the Vice President was in good health, there was special reason to fear that whoever was appointed Secretary of State might be called on to assume the duties of the Presidency, as provided by the Constitution. The appointment of Colby was confirmed on March 22, 1920, and, in the words of a popular historian, "it was generally believed that the President had at last found a Secretary of State whose mind would run in the same channel as his own."[15]

Among those who enjoyed the friendship and confidence of President Wilson his decision to ask Bainbridge Colby to become his Secretary of State surprised none more completely than Colby himself. Of no incumbent of that office in our history can it be said with greater truth that the honour was wholly unsought. Of course,

no normal man could be indifferent to, or fail to be gratified by, the distinction conferred by the invitation to fill that position which in our system of government is second only to the Presidency in importance. Mr. Colby's friends knew that, while he was naturally gratified by the distinguished manifestation of President Wilson's confidence and friendship, he did not desire to re-enter official life. They knew that his acceptance of the appointment could result only from a strong sense of the obligations of friendship. He had made considerable financial sacrifice in order to serve upon the Shipping Board; acceptance of the position of Secretary of State would involve further sacrifices of the same nature. That, however, was perhaps the least important of the causes for hesitation.

The task that he had been asked to undertake was exceedingly difficult. It is to be doubted whether in our history any newly-appointed Secretary of State ever faced a less inviting prospect than the President's invitation presented. To begin with, it was the last year of Woodrow Wilson's second term, the final phase of the regime. In the nature of things there could be no renewal. The failure of the Senate to ratify the Versailles treaty, and the bitter conflict between the President and the Senate over the League of Nations, had produced a condition unparalleled in the history of our foreign policy. Not only was there confusion and uncertainty in the Department of State; more important even than that was the fact that the international situation was adversely, and even dangerously, affected by the same factors. Other matters besides the treaty of peace and the League of Nations—matters of critical moment—were

drawn into the whirlpool of personal and partisan hatreds and bigotry.

The health of the President was also a factor in the situation. He was already exhausted and broken. The titanic energies, so nearly invincible, had overstrained the too vulnerable body. Whoever undertook the conduct of our Department of State must therefore be ready to bear the burden of responsibility to a degree far greater than either of his two immediate predecessors had done, and far greater than has been the rule in the last century. Moreover, he must face the prospect of possible misunderstandings by his chief, a stricken giant, with a giant's habit and will, struggling vainly to hold in enfeebled hands the old weapons. The manner of Mr. Lansing's dismissal finds in this condition the explanation that is at once most true and most humane.

Loyalty to his friend and chief, not political ambition, led Bainbridge Colby to accept the proffered post of honour. Almost immediately, he found himself compelled to deal with one important aspect of the great and complex problem of the relation of revolutionary Russia to the rest of civilized mankind. President Wilson had repeatedly manifested his sincere and profound friendship for the Russian nation and the Russian people. Russia never had a better friend than Woodrow Wilson. Evidences of that friendship are too numerous for citation *in extenso*, but reference may be made to the following: (*a*) the prompt recognition of the provisional Government on the fall of tsarism; (*b*) the American mission to Russia headed by ex-Secretary of State Root; (*c*) the President's address to Congress, January 8, 1918, with its statement of Russia's rights in the peace

settlement; (*d*) the Prinkipo proposal at the peace conference, January 1919; (*e*) Secretary Lansing's replies to the Lithuanian National Council, October 15, 1919, January 7, 1920, with their friendly protection of Russia's territorial sovereignty. Secretary Colby fully shared the President's friendship for the Russian nation and the Russian people, and one of his first important official acts was a manifestation of that friendship.

Reference is here made to the dignified but firm and vigorous protest addressed to the Japanese Government against the continued occupation of northern Sakhalin, which bore every appearance of being made permanent. Of far greater significance than its terms actually indicate, this note evoked the admiration of Russians of all shades of political opinion.[16] While it succeeded in drawing from the Japanese Government solemn assurances that it would evacuate the island after a temporary occupation, it served the greater purpose of warning all the powers that the United States would not be party to, or condone, any dismemberment of Russia by powers disposed to take advantage of her internal difficulties.

The invasion of Poland by the armies of Soviet Russia was the occasion for the issuance of a note on the Russian-Polish trouble which attracted world-wide attention.[17] It is now universally recognized as one of the most important diplomatic documents of the post-war period, and one of the great outstanding landmarks in the development of American policy. Addressed to the Italian ambassador in Washington in reply to his inquiry as to the attitude of the Government of the United States upon the Russian-Polish conflict, the note stated, with vigour and candour, the position of the United

States, not merely on the conflict in question, but towards the Bolshevist regime.

It was immediately perceived by the students of international affairs that here was a document of primary importance, not concerned with temporary incidents, but with the basic principles underlying the issue between Bolshevism on the one hand and democratic civilization on the other. With the great documents announcing the Monroe Doctrine and the "open-door" policy the historian of America's foreign policy must henceforth include Secretary Colby's Russian note. The reply to the Italian ambassador's question concerning the Russian-Polish conflict takes up two very short paragraphs only. The solicitude of the United States "for the maintenance of Poland's political independence and territorial integrity" is tersely stated, as is the fact that while the Government of the United States "takes no exception to the effort apparently being made in some quarters to arrange an armistice between Poland and Russia," it would not favour "the expansion of the armistice negotiations into a general European conference." The reason given for this latter position is highly significant: such a conference would, in all probability, involve two results—namely, recognition of the Bolshevist regime and a settlement of Russian problems upon the basis of a dismemberment of Russia. From both of these results, said the note, "this country strongly recoils." Secretary Colby then proceeded to discuss "certain cognate and inseparable phases of the Russian question viewed more broadly." A review of recent American manifestations of friendship for Russia forms the background for an indictment of the Bolshevist regime,

merciless in its severity and unanswerable in its logic. In view of the facts in the indictment the note sets forth that: "In the view of this Government there cannot be any common ground upon which it can stand with a Power whose conceptions of international relations are so entirely alien to its own, so utterly repugnant to its moral sense. . . . We cannot recognize, hold official relations with, or give friendly reception to the agents of a government which is determined and bound to conspire against our institutions, whose diplomats will be the agitators of dangerous revolt."

Secretary Colby made it quite clear that this attitude was in no wise due to disapproval of any particular political or economic system set up in Russia. If Russia desired to base her government upon the Soviet principle, or her economic life upon communism, that did not concern the United States, but was clearly a right inherent in Russian sovereignty. It was on account of repeated denials and repudiations of the principles and usages which are the foundation of international order and comity, and gross and calculated violations of the code universally accepted by civilized states, and for no other reason, that recognition was denied the Bolshevist Government of Russia:

> "It is not possible for the Government of the United States to recognize the present rulers of Russia as a government with which the relations common to friendly governments can be maintained. This conviction has nothing to do with any particular political or social structure which the Russian people themselves may see fit to embrace. It rests upon a wholly

different set of facts. These facts, which none dispute, have convinced the Government of the United States against its will that the existing regime in Russia is based upon the negation of every principle of honor and good faith, and every usage and convention underlying the whole structure of international law, the negation, in short, of every principle upon which it is possible to base harmonious and trustful relations, whether of nations or of individuals.

"The responsible leaders of the regime have frequently and openly boasted that they are willing to sign agreements and undertakings with foreign powers while not having the slightest intention of observing such undertakings or carrying out such agreements. This attitude of disregard of obligations voluntarily entered into, they base upon the theory that no compact or agreement made with a non-Bolshevist Government can have any moral force for them. They have not only avowed this as a doctrine, but have exemplified it in practice. Indeed, upon numerous occasions the responsible spokesmen of this Power and its official agencies have declared that it is their understanding that the very existence of Bolshevism in Russia, the maintenance of their own rule, depends, and must continue to depend, upon the occurrence of revolutions in all other great civilized nations, including the United States, which will overthrow and destroy their governments and set up Bolshevist rule in their stead. They have made it quite plain that they intend to use every means, including, of course, diplomatic agencies, to promote such revolutionary movements in other countries.

"It is true that they have in various ways expressed their willingness to give assurances and guarantees that they will not abuse the privileges and immunities of diplomatic agencies by using them for this purpose. In view of their own declarations already referred to, such assurances and guarantees cannot be very seriously regarded.

"Moreover, it is within the knowledge of the Government of the United States that the Bolshevist Government is itself subject to the control of a political faction with extensive international ramifications through the Third Internationale, and that this body, which is heavily subsidized by the Bolshevist Government from the public revenue of Russia, has for its openly avowed aim the promotion of Bolshevist revolutions throughout the world. Leaders of the Bolshevists have boasted that their promise of non-interference with other nations would in nowise bind the agents of this body. There is no room for reasonable doubt that such agents would receive the support and protection of any diplomatic agencies the Bolshevists might have in other countries. Inevitably the diplomatic service of the Bolshevist Government would become a channel for intrigue and the propaganda of revolt against the institutions and laws of countries with which it was at peace, which would be an abuse of friendship to which enlightened governments cannot subject themselves.

"In the view of this Government there cannot be any common ground upon which it can stand with a power whose conceptions of international relations are so entirely alien to its own, so utterly repugnant to its

moral sense. There can be no mutual confidence or trust, no respect even, if pledges are to be given and agreements made with a cynical repudiation of their obligations already in the mind of one of the parties. We cannot recognize, hold official relations with, or give friendly reception to the agents of a Government which is determined and bound to conspire against our institutions, whose diplomats will be the agitators of dangerous revolt, whose spokesmen say that they sign agreements with no intention of keeping them."

It is hardly possible to exaggerate the profound sensation caused by Secretary Colby's uncompromising language. A distinguished French diplomat told a friend of the present writer that he was in Poland at the time and that "the Colby note marched upon the scene at Warsaw with the effect of many an army corps." Eight years have passed since it was published and it still stands as a statement of our policy towards the Soviet regime. It has been subject to much criticism, but on the whole the wide approval with which it was hailed throughout the country has been increased, not lessened, by the developments of the last eight years. One feels that the statement made by the British Foreign Secretary, Sir Austen Chamberlain, in the House of Commons, June 25, 1926, is a sufficient vindication of Secretary Colby's prescience and courage. The British Minister said on that occasion: "I am a member of the government which made the trade agreement with Russia. Our hopes in that direction have not been fulfilled. And if we had to decide whether to make that agreement today, I would not make it. If it was a question of resuming relations with

the Soviet Government I would answer in the negative. . . . The Government does not think they would serve their own interests or the interests of the world by breaking off relations with Russia. But they do not think that they can enter upon any fresh agreements while the engagements of the Soviet Government already undertaken are daily and persistently broken under the shadiest and shabbiest of excuses."[18]

It has been charged that the policy set forth by Secretary Colby, and, indeed, the whole policy of the Wilson Administration in dealing with Soviet Russia, were negative merely and wholly void of constructive aim and purpose. By way of comment upon that criticism it may be permissible to refer, briefly and in general terms, to a fact which has never heretofore been mentioned, or even so much as hinted at. President Wilson had long felt that denial of the claims of the Bolshevist rulers to recognition was not sufficient. He felt, rather vaguely perhaps, that some suggestion could be made, some course of action outlined, by this and other friendly nations, which would lead to the voluntary return of Russia to the family of nations. That was in his mind in suggesting the Prinkipo Conference,[19] and thereafter he was constantly seeking some way of attaining the desired end. With this purpose Secretary Colby was in full and hearty accord. He laid before the President, late in 1920, the outline of a bold and comprehensive plan, which the President was quick to approve and endorse.

It was hoped that the Prime Minister of Sweden, Hjalmar Branting, with whom confidential communication was established, could simultaneously address the Soviet Government and the governments of the United

States and other great nations in carefully prepared terms of genuine friendship and devotion to the aims and ideals of the Russian revolution, to which his personality and history as one of the oldest and most trusted leaders of the Social Democracy of Europe would have lent credence and authority. Branting was to offer certain suggestions, constituting a definite and comprehensive program, which there was good authority for believing that Lenin would be disposed to accept. The suggestions were aimed at the voluntary liquidation of the dictatorship, the basing of the government of Russia upon "the sanction of the authentic organs of the Russian people," to adopt a luminous phrase used by Trotzky at Brest-Litovsk. On the other hand, the several other governments were to be asked to agree to a certain program in the event of a favourable reply from the Soviet Government. This program included assurances of immediate recognition of any Russian government emanating from a truly representative movement of the general character suggested. It included, also, guarantees of non-interference and of comprehensive economic assistance and a postponement of all claims against Russia pending her economic recovery. President Wilson gave ample assurance that he would make immediate affirmative response should the Swedish Prime Minister take the initiative proposed.

It was a sincere, profoundly conceived effort to hold out a means of bringing tranquillity to Russia and her restoration to the place in the council of the family of nations to which her history and importance entitle her. Branting cordially, and even enthusiastically, endorsed the program, expressing the view that only upon the

basis of such a program could tranquillity be restored in Russia. He spoke with great admiration of the "noble idealism and wise international statesmanship of President Wilson." Notwithstanding the Prime Minister's personal opinion, however, his Cabinet, after careful deliberation, decided that, because of Sweden's position, it would be unwise for her Premier to take the step suggested. Consequently the plan was reluctantly laid aside. The present writer believes that future historians will agree that, in the circumstances of the time, Secretary Colby's effort was well advised; that it showed a clear understanding of the Russian situation, and, what is most important, held in it the elements of probable success. Be these things how they may, there can be no question that this hitherto unrecorded chapter in our foreign policy vindicates both President Wilson and Secretary Colby from the charge of holding an attitude towards Soviet Russia exclusively negative in character.

Soon after Secretary Colby assumed office, the Government of Mexico inaugurated a new attempt to gain recognition by the United States and restore normal relations between the two countries. All through the two terms of President Wilson the Mexican problem, inherited from the Taft Administration, had been before the Department of State. Ably supported and aided by Norman H. Davis, Under-secretary of State, Colby made a supreme effort to bring the matter to a successful termination. After a series of conferences with various Mexican representatives Secretary Colby set forth, in a letter to Señor Roberto V. Pesquiera, accredited representative of the Mexican Government, the terms

of an understanding that had been informally reached between them, and that it was believed would result in the restoration of normal relations between the two countries.[20] Acceptance was made easy for Mexico by the assurances given that the United States had no "desire to influence or interfere with Mexico in the adoption and pursuit of any policy with regard to its lands and resources which expresses its aspirations and satisfies its people." Going further, Secretary Colby assured Señor Pesquiera that the American people widely sympathized with the desire of Mexico "to inaugurate a policy which shall protect its great resources against waste, dispersal or other improvident treatment. The freedom to do this," he continued, "which no one can dispute nor even criticise is in no sense compromised by the due respect for legally vested interests" that Mexico had fully avowed. He suggested that "commissioners be appointed by both Mexico and the United States to formulate a treaty embodying the agreements which have been reached as a result of your mission." Although this effort was not immediately successful, it is noteworthy that the policy formulated by Secretary Colby was followed, without deviation, by his successor, Secretary Hughes, and this in spite of the fact that President Harding in his electoral campaign had pledged himself to a complete reversal of the foreign policy of the Wilson Administration.[21]

Fully and unreservedly believing in the League of Nations, Secretary Colby regarded it as his duty to sustain President Wilson in his fight. Not only was it a cardinal principle of his policy to conduct the affairs of the Department of State in such a manner as to support and strengthen the league, but as the principal lieutenant

of his stricken and wounded chief he took a foremost place in the ranks of those who were fighting for the league. It was in this spirit that, by President Wilson's expressed desire, he attended the Democratic national convention, at San Francisco, in July 1920. It was well known that if it had been possible for him to do so, President Wilson would himself have gone to that convention and in person appealed for whole-hearted support for the League of Nations. Unable to attend the convention himself, he expressed a desire that Colby should go in his stead, in a very special sense as his representative. The convention was made memorable by the debate that occurred over William J. Bryan's proposal to insert in the party platform a plank favouring a constitutional amendment which would provide for the ratification of treaties by majority vote. The debate gave rise to an oratorical duel between the Secretary of State and his predecessor in office. With biting satire and unassailable logic the former contended for unqualified endorsement of the President's policy with respect to the League of Nations, and denounced Mr. Bryan's projected plank as befogging the issue and delaying settlement.

In the same spirit of aggressive support of the League of Nations, Secretary Colby addressed great meetings in various parts of the country. The most important speech of this series was undoubtedly that which he delivered, in response to an official invitation, before a joint session of the legislature of Missouri, his native state. Among many noble arguments in support of the League of Nations this speech takes high rank.

In November there was a vigorous exchange of notes between Earl Curzon, the British Foreign Minister, and

Secretary Colby upon the interpretation of the Versailles treaty in the matter of mandates and the powers and duties of mandatory trustees. In his note of November 20, 1920, frequently called the Mesopotamia note,[22] Colby challenged the British view that only in the council of the League of Nations and by the signatories of the covenant could the terms of the mandates be discussed and interpreted, and the government of the mandated territories, transferred as a result of the war, determined. The United States had participated in the war by which these territories had been wrested from German sovereignty and control. It had assented to the acquisition of the territories, and their government under mandates, because it believed that thereby "equal treatment to the commerce and to the citizens of all nations" could be assured better than in any other way. As a participant in the war and an important contributor to the victory, it could not "consider any of the associated powers, the smallest not less than itself, debarred from the discussion of any of its consequences, or from participation in the rights and privileges secured under the mandates provided for in the treaties of peace." He warned against any departure from the "underlying principles of a mandate, as evolved and sought to be applied by the allied and associated powers to the territories brought under their temporary dominion, by their joint struggle and common victory. This dominion will be wholly misconceived, not to say abused, if there is even the slightest deviation from the spirit and the exclusive purpose of a trusteeship as strict as it is comprehensive." The vigour and strength of this presentation of America's right to share in the shaping

of the policies to be pursued in the mandated territories, regardless of our rejection of the League of Nations, evoked much admiring comment by British publicists, even those who disagreed with him in the claims made, which, by the way, were finally acquiesced in by the British Government, during President Harding's Administration. The *Contemporary Review*, of London, reprinting the note in full, described it as "stringent, but salutary." Immediately following the note to Earl Curzon, Secretary Colby addressed another to the president and members of the council of the League of Nations,[23] advancing the same contentions with regard to the German islands in the Pacific Ocean, the occasion being the proposed transfer of the island of Yap under the mandate to Japan. Secretary Colby restated the American position in this note as follows: "As one of the 'Principal Allied and Associated Powers,' the United States has an equal concern and an inseparable interest with the other principal allied and associated powers in the overseas possessions of Germany, and concededly an equal voice in their disposition, which it is respectfully submitted cannot be undertaken or effectuated without its assent."

The policy thus formulated and vigorously asserted by Secretary Colby was rigidly adhered to by Secretary Hughes, his successor. To the former, therefore, is due the credit of having successfully asserted a principle of vital importance to the United States as a great power. The present writer believes that the uniformity with which the foreign policy of Secretary Colby was adhered to by his successor, in spite of the electoral pledge given by President Harding, already quoted, is a unique testi-

monial to the policy and to Colby himself. The pledge of Mr. Harding, that if elected President, he would reverse the whole foreign policy of the Wilson regime, was explicit and unequivocal. Yet his Secretary of State attempted nothing of the sort. He maintained intact every essential feature of Secretary Colby's policy with respect to Russia, to Mexico, and to the mandated territories. The most exacting test reveals not the slightest departure by Mr. Hughes from the lines laid down by his predecessor. That record reflects the highest honour upon Secretary Hughes; it equally attests the signal success of Secretary Colby and places upon his work a mark of notable approbation, which must give him high rank among the many distinguished statesmen who have been Secretaries of State.

In December 1920 Secretary Colby made an official visit to Brazil, Uruguay, and Argentina. His visit to the two countries first named differed from visits made to those and other South American countries by previous Secretaries of State in one important respect; he went, not merely as Secretary of State, but as the personal representative of President Wilson, to return the formal visits of President Pessoa of Brazil, and President Brum of Uruguay. He was, therefore, received with the honours that would have been accorded President Wilson himself, or a visiting sovereign.

It is not too much to say that no other American statesman visiting South America in an official capacity has ever quite equalled the success attained by Secretary Colby. His peculiarly graceful oratory was never more effective than in the speeches he made at Rio de Janiero and Montevideo. They evoked the enthusiastic

praise of the leading newspapers of South America and are still frequently referred to as notable exemplifications of American policy at its best. There can hardly be a higher tribute to the skill and understanding he displayed than that furnished by the uniform endorsement and commendation of the press.[24] That his visit strengthened the prestige of the United States and increased the goodwill of the people of South America towards us is incontestable.[25]

His discussion of the Monroe Doctrine particularly appealed to the people of Latin America. No representative of the United States could choose a more difficult subject, or one fraught with greater danger. When Secretary Colby broached the subject in a public address at Montevideo, the tense and eager attention of the brilliant and distinguished audience attested more eloquently than mere words could do the profound interest which that great principle of our foreign policy holds for the people of South America. The occasion was a dinner given by Señor Buero, the Uraguayan Minister of Foreign Affairs, on December 29, 1920, in honour of Secretary Colby. The latter's statement of the Monroe Doctrine, without either modification or truncation, so as to win the eager and universal applause of the political leaders of South America, was remarkable if considered simply as an oratorical achievement. It was of much greater significance, however, as an example of enlightened statesmanship. His auditors knew that they were listening to one who had fully grasped their point of view and sympathetically comprehended their history. They cheered such statements as this:

"I cannot understand how there can be any misconception, even the slightest, of the farsighted, unselfish and fraternal policy of the Monroe Doctrine in the light of its century of useful service, not to this hemisphere alone, but to the whole world. For it must be remembered that no countries have so fully and so profitably participated in the fruitage of stable government, of unmolested national independence and law-abiding liberty in South America as have the nations of Europe, to whom the declarations contained in the Monroe Doctrine were primarily intended to apply. . . .

"What was it originally, and what has it ever been, but a solemn declaration by the United States of its belief in the capacity for self-government of each of the peoples of the Western Hemisphere, and an equally solemn engagement to safeguard them to the extent of its power against interference from any quarter, while forging ahead through the trials and vicissitudes which lie in the pathway of every nascent state? . . .

"With brilliance and splendor, the republics of the Americas have one by one emerged from the earlier period of struggle and taken their true position as self-competent powers. Their evolution has been not only rapid, but sound and symmetrical. In every aspect of their rounded national life they challenge comparison with the most advanced and enlightened states of the world. And thus the old doctrine of the inviolability of republican institutions in the western continents speaks with an ever-swelling note throughout the world, as nation after nation has outgrown the

need of its protection, and become, with full equality, a participant in its maintenance and assertion."[26]

Without sacrificing even the smallest particle of the essential meaning of the Monroe Doctrine, Secretary Colby by his wisely generous interpretation of it made it possible for the proud-spirited peoples of Latin America to accept it. He had made it the instrument, not of the United States alone, but of all the republics of the Americas.

It may well be doubted whether any other single utterance by any American statesman ever contributed more to the establishment of confidence and goodwill towards the United States on the part of the peoples of South America. The speech delivered by President Wilson at Mobile, Alabama, in 1913, appears to the present writer to be almost, if not quite, the only utterance by a responsible American statesman comparable to it.

Upon the conclusion of the Democratic Administration, in March 1921, Woodrow Wilson and Bainbridge Colby formed a partnership for the practice of law, under the firm name of Wilson and Colby, with offices in Washington and New York. Mr. Wilson was admitted to the bar of the District of Columbia on motion, and to the bar of the state of New York by a special act of the legislature of that state. The partnership lasted until January 1, 1923, when it was dissolved because of Mr. Wilson's physical condition. The fact that he entered into this partnership is the best possible evidence of Mr. Wilson's personal estimate of the man he had drafted to fill the most responsible position in his Cabinet at a time of extraordinary difficulty. It was a striking

manifestation of his confidence and his approval. It remains only to be added that to the very end the former President retained his admiration and affection for the friend and colleague who had served him so well.

Anything like an attempt to evaluate Secretary Colby's contribution to American diplomacy and statesmanship lies outside the prescribed limits of this study. We are too near for historical perspective. We know what President Wilson's estimate was; that is part of the record. How historical scholarship will judge Woodrow Wilson's appraisals of his associates and other contemporaries is, however, as uncertain as how it will judge his own record. There is an ancient maxim that in statecraft contemporary foreign opinion is in general an anticipation of the judgment of posterity. If we apply this rule in the present instance, and regard the judgments of contemporary foreign statesmen and critics as indications of Colby's place in history, it is clear that he must be assigned high rank among our great Secretaries of State. In circumstances of almost unexampled difficulty he was called upon to deal with some of the most momentous issues of an era memorable for the magnitude and gravity of its international problems. That he upheld American interests with wisdom and courage, expressed with equal firmness and tact, is the consensus of that foreign opinion to which we have referred. That he strengthened the resistance of civilization to the Bolshevist challenge can never be seriously questioned in the face of the record. A brief survey of the voluminous European literature, both pro-Bolshevist and anti-Bolshevist, dealing with that period shows this clearly. The same thing is evident from the utterances of

responsible European statesmen. If Bolshevism is finally discredited and civilization rises to new heights upon the broad foundations of private property and personal initiative, as we must believe will be so, the diplomacy of this great American will be counted among the forces which brought about that result.

Perhaps the future historian, writing of the last phase of the Wilson regime with the clear view that only what Matthew Arnold called the dry light of history can give, will regard as the most remarkable part of Secretary Colby's record its revelation of his intellectual and spiritual kinship with Woodrow Wilson. The latter chose Colby to be his Secretary of State because he wanted intellectual co-operation, "some one whose mind would more willingly go along with mine." It happened that the mind he chose had to be relied upon to act, upon matters of the most vital importance, not in co-operation with his, as he had hoped, but for his, alone and independently. So thorough was the intellectual and spiritual kinship that few ever guessed the extent to which Secretary Colby, alone and upon his own responsibility, represented his great chieftain. State papers that Mr. Colby wrote upon his own responsibility were acclaimed by President Wilson's friends and assailed by his foes as typical examples of his thought and style. But more significant than that is the fact that in the brief evening of his life, as he contemplated the bitter and tragic close of his second term, Woodrow Wilson rejoiced in Bainbridge Colby's representation of his will and aspiration, and found solace in the perfect loyalty of his friend.

CHARLES EVANS HUGHES

SECRETARY OF STATE

MARCH 4, 1921, TO MARCH 4, 1925

BY

CHARLES CHENEY HYDE

HAMILTON FISH PROFESSOR OF INTERNATIONAL LAW AND DIPLOMACY IN COLUMBIA UNIVERSITY

CHARLES E. HUGHES

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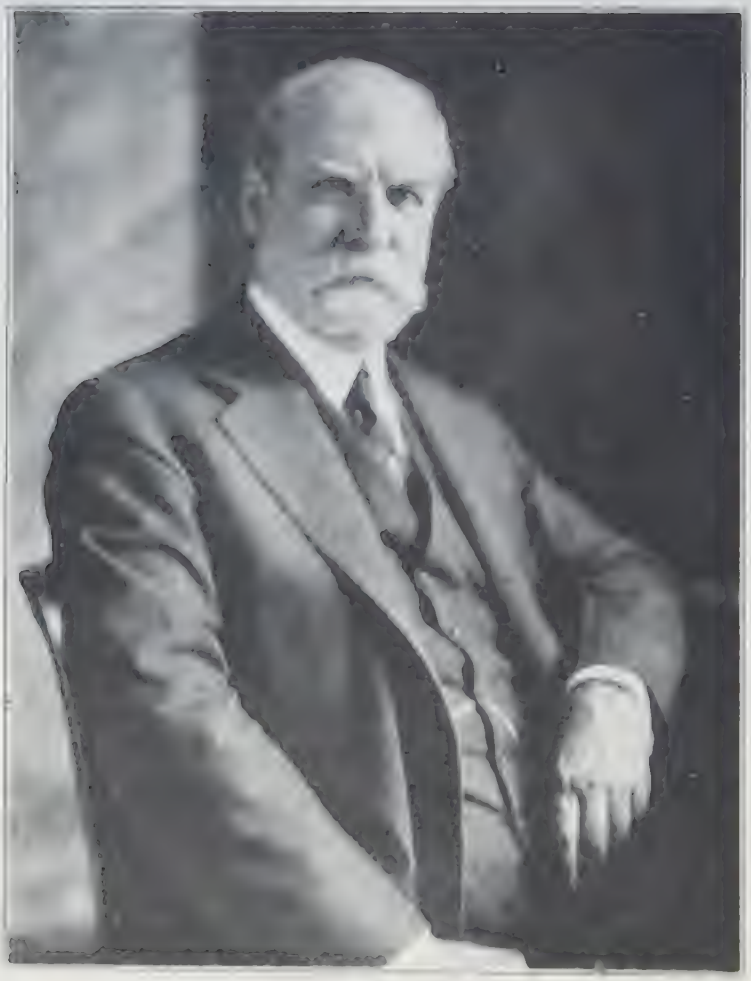

Charles E. Hughes

CHAPTER I

PRELIMINARY

TO picture Charles Evans Hughes during the four full years of his sojourn at the Department of State requires much more than the space assigned to the sketch that follows. In the fewest words, therefore, reference is made to what preceded those years.

The man was born on April 11, 1862, the son of the Reverend David Charles Hughes and Mary Catherine Connelly. His early studies were under the direction of his mother; and for her rigour in exacting thoroughness in arithmetic he never ceased to be grateful. After spending two years, 1876–1878, at Colgate University, he entered Brown University, from which he was graduated in 1881. Thereupon he entered the Columbia Law School, and received the degree of LL.B. in 1884, simultaneously receiving the degree of Master of Arts from Brown University. On December 5, 1888, he married Miss Antoinette Carter. Their children were Charles Evans, Jr.; Helen, who died; Catherine, who became the wife of Chauncey Lockhart Waddell; and Elizabeth Evans.

Following his admission to the bar in 1884, he practised law in New York City until 1907, except for the years 1891–1893, when he served as a professor of law at

Cornell University. At various periods he was a special lecturer at both the Cornell and New York Law Schools.

His public service began when in 1905 he became counsel for the Stevens Gas Commission of the New York legislature. His success in that capacity led to his retention as counsel for the Armstrong Insurance Committee of that legislature. The skill and vigour with which he uncovered fraudulent and wasteful practices, which had been perpetrated on a colossal scale, aroused intense interest and sympathy throughout the United States.

Over the country there swept a sense of outrage as the facts were revealed to it, and a sense also of the integrity and high purpose of him who was responsible for the revelation. The public demanded that one who had thus served it should continue to serve it. The man declined, however, the Republican nomination for mayor of New York in 1905; but the following year the Attorney-General of the United States, Mr. Moody, impressed him into service as a special assistant in the national coal investigation. The people of the state of New York elected him their governor for two consecutive terms. He entered upon his duties at Albany, January 1, 1907, his second term not expiring until December 31, 1910. He resigned, however, on October 6, 1910, to become four days later an Associate Justice of the Supreme Court of the United States. He resigned from the bench on June 10, 1916, to accept on the same day the Republican nomination for the Presidency. In the election that followed he received 254 electoral votes, while his Democratic opponent, President Woodrow Wilson, received 277 votes. In 1917 he became the head of the law firm of

Hughes, Rounds, Schurman and Dwight, in New York City, where he continued to practise until he became Secretary of State, in March 1921. During the World War he was chairman of the Draft Appeal Board in New York City and served also at the request of President Wilson as special assistant to the Attorney-General, Mr. Gregory, in charge of the aircraft inquiry.

The appointment of Mr. Hughes as Secretary of State was in no sense a political one. It was due to the simplest of reasons—the confidence of the President-elect in the ability and integrity of the man, and the conviction of the former that there was no one better qualified for the office. In November 1920 Senator Harding wrote to Mr. Hughes expressing a desire to confer with him at his home at Marion, Ohio, in December, with respect to the foreign relations of the United States. A conference was held at Marion about December 10. The President-elect, somewhat to the surprise of Mr. Hughes, asked him if he would be willing to be Secretary of State. The latter felt it necessary to consult his law partners in New York before he could make a decision. In a few days, however, he wrote to Senator Harding that he was prepared to accept the appointment if the latter still wanted him. On December 22, 1920 Senator Harding wrote to Mr. Hughes expressing satisfaction that he had accepted the offer orally made at Marion, and confirming the understanding between them. He revealed his own thought in these words: "The big thing is that you will serve. It strengthens my faith, because I believe in you, and feel that the American people share my high opinion." Late in January 1921 the President-elect found occasion to write to Mr. Hughes in relation to a further conference. In the

course of his letter he declared: "I do not mind saying to you that I grow more pleased every day to know that you are content to make the great sacrifice and come to the public service to which it has been my privilege to invite you." Mr. Hughes went to St. Augustine, where the conference took place on February 19. The President-elect introduced him to the press correspondents as the Secretary of State designate. As he did so, he added: "From this time on, Gentlemen, you will get your news as to the foreign relations of the United States from the State Department."

Such, briefly, were the incidents that prefaced the assumption of office by the man who served as the head of the Cabinet for the following four years.

CHAPTER II

THE IMMEDIATE PROBLEM. PEACE WITH GERMANY AND HER ALLIES

WHEN Charles Evans Hughes became Secretary of State, on March 4, 1921, the United States had not ceased to be at war with Germany, Austria, and Hungary. The immediate problem confronting him was the restoration of peace in such a way as to safeguard the rights of the United States as against its enemies. The problem was primarily a legal one. The question of national policy had been fixed. The new Secretary was obliged to face the situation as it was.

On November 19, 1919 the Treaty of Versailles, concluded on June 28, 1919, which embodied the terms of peace exacted of and accepted by Germany, had been rejected by the Senate, which refused to advise and consent to the ratification of that document both with and without reservations.[1] The Senate again had rejected the treaty on March 19, 1920, when subjected to certain reservations which were supported by Senator Lodge and twenty-seven other Republican senators.[2]

On November 2, 1920 Warren Gamaliel Harding, the Republican candidate, had been elected President by a decision of the people that carried thirty-seven states and registered four hundred and four electoral votes and a plurality of over seven millions, and on a platform opposing the Covenant of the League of Nations and accentuating the importance of safeguarding the independence of the United States.

It was well understood that upon the inauguration of the Harding Administration the Congress would proclaim the termination of the war. This was done. A joint resolution, approved July 2, 1921, declared the war with Germany "to be at an end." The resolution also made elaborate reservations of rights accruing to the United States under the armistice of November 11, 1918, and also of those which had been stipulated for its benefit under the Treaty of Versailles. Moreover it contained a declaration announcing the retention of German and other enemy property which had come into American control, until suitable provision were made by the German (and the Austrian and Hungarian) Government for the satisfaction of American claims within a wide field.

It was clear, however, that something more than a joint resolution was necessary in order to safeguard American rights. While it was strictly true that a war could be terminated by the sole act of a single belligerent, if its enemy acquiesced, it was equally true that the imposing of special burdens upon that enemy, as for the satisfaction of claims, called for definite agreement. A joint reservation might reserve rights, but it could not create them. Again, while Germany had, through the Treaty of Versailles, made ample renunciation of numerous rights and interests in favour of the five Principal Allied and Associated powers which had borne the brunt of the effort that won the common victory, and had so made the United States a direct beneficiary, it was of first importance, if not essential in law, that the United States, if it did not elect to ratify the Treaty of Versailles, obtain direct confirmation by Germany of these renunciations.

Secretary Hughes was keenly alive to this and accordingly set about to gain Germany's consent to a treaty which would serve both to heed the rights reserved in the joint resolution of July 2, 1921, and to confirm the renunciations which by the Treaty of Versailles Germany had yielded for the benefit of the United States as one of the five Principal Allied and Associated powers. He was disposed to utilize the Treaty of Versailles as the basis of negotiation, subjecting it to declarations and reservations designed to satisfy the Senate, and supplementing it with appropriate reference to the joint resolution. He so advised President Harding; and the President acquiesced. Senators Lodge and Kellogg and other Republican members of the Senate informed the Secretary of State, however, in the most definite way that an expurgated Treaty of Versailles could not possibly receive the requisite approval of that body. Still convinced that a treaty with Germany was essential, Secretary Hughes devised the plan of submitting to that country a fresh convention embodying the text of the joint resolution, and appending to it such parts of the Treaty of Versailles as were wanted. He followed this course. Accordingly, he offered to the German Government a simple text, consisting of a preamble and three articles, with the necessary and desired appendages. Germany acquiesced.

Herein Germany undertook to accord to the United States all the rights, privileges, indemnities, reparations, or advantages which had been specified in the joint resolution, "including all the rights and advantages stipulated for the benefit of the United States" in the Treaty of Versailles, which, it was declared, the United States should fully enjoy, notwithstanding the fact that that

treaty had not been ratified by the United States. There was definite reference to the particular parts of the Treaty of Versailles which the United States might invoke, and assurance given that in availing itself of them it would do so in a manner consistent with the right accorded Germany under such provisions. It was provided that the United States should be free from the operation of the Covenant of the League of Nations and not bound by the action of that body without its express assent. It was agreed that the United States should assume no obligations under specified sections of the Treaty of Versailles; and it was accorded the privilege, but not burdened with the obligation, of participating in the Reparation Commission. The treaty was signed at Berlin on August 25, 1921 by Ellis Loring Dresel, the American commissioner, and by Dr. Friedrich Rosen, the German Minister for Foreign Affairs. The Senate advised and consented to ratification, subject to a specified understanding, on October 18, 1921.[3] The treaty, which has been popularly known as the Treaty of Berlin, was ratified by the President on October 21, 1921, and by Germany on November 2, 1921. Ratifications were exchanged at Berlin on November 11, 1921, and the treaty was proclaimed by President Harding on November 14, 1921.

Thus were friendly relations with Germany restored. The same general principle was applied in restoring such relations with Austria and with Hungary. To an appropriate treaty with the former, signed at Vienna on August 24, 1921, were appended desired portions of Austria's treaty of peace concluded at Saint-Germain-en-Laye, September 10, 1919, which the United States had

not ratified; and to an appropriate treaty with the latter, signed at Budapest, August 29, 1921, were appended desired portions of Hungary's treaty of peace signed at Trianon, June 4, 1920, which the United States had not ratified. The Senate advised and consented to the ratification of both treaties, subject to understandings similar in purport to those on which it conditioned its acceptance of the treaty restoring friendly relations with Germany. In pursuing such a course the United States did no injustice to the Allied powers which had ratified the treaties of peace with their former enemies.

With respect to the action of his country in relation to Germany, Secretary Hughes declared in the course of a letter of July 14, 1922:

> "The separate Treaty with Germany was concluded for the sufficient reason that it became perfectly clear, after the most careful consideration, that the re-submission of the Treaty of Versailles with suggested reservations would have no other result than the renewal of the former controversy and its continuance for an indefinite time. It was in the interest of the Allies, as well as of ourselves, and it was essential to the cause of peace that we should dispose of the matter by a separate treaty, and this was accomplished in a manner confirming our own rights and not derogating from those of the Allies. It is necessary when we deal with concrete situations to understand what courses are practicable."

Secretary Hughes never lost sight of the fact that the renunciations and sacrifices which Germany was called

upon by her enemies to make, and to which she consented, were unrelated to the plans for a world organization which the Principal Allied powers saw fit to incorporate in a treaty of peace. The only questions as between Germany and its enemies concerned the nature and extent of what it should give up or undertake to do. In so far as the solution affected the United States, the Secretary of State sought no discrimination in its favour. In endeavouring to safeguard for his country what Germany had already agreed to yield for its benefit, as well as for that of France, Great Britain, Italy, and Japan, because of the part that each had played in achieving the common victory, Secretary Hughes took an unassailable stand, from which the Allied powers were never able to dislodge him and in which certain of them felt ultimately disposed formally to acquiesce.

CHAPTER III

CONTACTS WITH THE DIPLOMATIC CORPS

APART from the political and legal burdens that rested on his shoulders, the Secretary of State found himself face to face with social obligations that were peculiar to his office. They differed in kind and extent from those which he had once known as an Associate Justice of the Supreme Court. He could not, even if he chose to do so, confine his circle to a relatively small group of congenial countrymen officially entitled to enter it. He was suddenly burdened with a new and exacting duty, the faithful performance of which demanded a close and almost daily intercourse with the members of the largest diplomatic corps assembled in any capital, who were never unconscious of the fact that they were the official spokesmen of their governments. Secretary Hughes realized that they were the guests of the nation and that no aspect of their contact with it was unimportant to the United States. He felt the responsibility that was his personally, and accepted it blithely. Accordingly, he threw himself with alacrity into the life of his foreign associates, lived it with them, and made the most of it.

With a warmth of heart and a good humour that never failed him, the Secretary of State gained an intimacy of fellowship and confidence which the diplomatic corps had no disposition to withhold and which never forsook him during his term of service. He was punctilious in the

care and deference with which he heeded events that properly loomed large in the minds of foreign envoys. If a celebration marked the anniversary of a famous battle, or the birthday of a monarch, he was a participant. If funeral or memorial services were held, no volume of unfinished work could keep him from attendance. If a member of a minister's family became a bride, she could count on the Secretary of State as a witness of the wedding ceremony. There was nothing perfunctory in the way in which he met these demands. At the memorial service in honour of Lord Bryce he paid a fresh and distinctive tribute to that great British ambassador.[4] At the Peruvian reception to celebrate the hundredth anniversary of the battle of Ayacucho the Secretary's words warmed the hearts of his Latin American hearers.[5]

Nevertheless, it was impossible for Secretary Hughes to take too seriously his social obligations. With his associates of the State Department Club, comprising the officers and personnel of the Department who assembled at Rauscher's during the winter months, he felt on free terms. At the opening meeting on one December night he smilingly announced that the social season had begun and that he and the Under Secretary (Mr. Phillips) were prepared to "dine for our country." Here was a function that convention rigidly imposed. It entailed the breaking of bread as guest of every diplomatic mission which essayed to become a host, as well as with numerous officers of the Government, in addition to the President and the Cabinet. The reciprocal obligations were obvious. The sacrifice of time and strength was heavy. Rarely was an evening during the social season available

for study or deliberation, although it was indispensable for the Secretary of State to find opportunity outside of his office for the serene consideration of the larger problems confronting him. Consequently, Sundays had to be transformed from days of rest into occasions for the examination of documents or the drafting of important notes or the conferring with subordinates. He entered uncomplainingly and with apparent zest upon his task. As the recipient of hospitality he never failed to cheer a perhaps anxious hostess. His geniality as a host banished every trace of anxiety or perplexity over the series of difficulties which had taxed his mind throughout the day on which Mrs. Hughes and he entertained; and of that geniality his every guest received fullest measure, regardless of his own official station or lack of one.

The associations maintained in such a spirit were bound to bear fruit. They enabled the Secretary of State to understand more clearly the minds and personal desires of the men who were accredited to his country, and to know how they reacted with respect to contentions which he officially advocated in its behalf. Conversely, they produced quite another effect. They revealed the man himself. He was probably never fully conscious of the significance of that revelation.

Here was a man whom the diplomatic corps encountered somewhat as an antagonist when they called at the State Department under instructions to lodge complaints or to discuss controversial matters. In those encounters they often fared badly, especially if the question at issue were a legal one. Law was the language that Secretary Hughes spoke, and when a diplomat undertook to employ that perhaps unfamiliar tongue, the envoy

was not always eloquent or convincing. This was obvious when the case involved the seizure of a rum-runner. Nor did secretaries of embassy or legation relish the prospect of controversies with the Secretary of State. One morning, for example, a young chargé d'affaires requested the Department of State for an appointment in order to deliver orally an instruction which he had just received from his Government. In a few minutes he was informed that the Secretary would see him at eleven o'clock. The man was panic-stricken. With trepidation he telephoned the Department begging permission to deliver his instruction to an assistant secretary, declaring that he would never be able to answer the questions which Secretary Hughes might put to him, and so might embarrass his own Government. The plea was of course respected.

It should not be inferred, however, that the Secretary was ungracious to his official callers or designedly made their path hard. He was invariably courteous and received in the best of spirit whatever message was intended for his ears. He heeded every equitable consideration that was presented. He struggled to be fair and to allow no prejudice to mar his judgment; and he demanded of his subordinates the endeavour to do likewise. The diplomats in Washington knew that Secretary Hughes was judicially minded and sensitive to injustice, whoever might be the victim. But they also found him a powerful defender of his country, and one with whom a combat on equal terms was an impossibility whenever he believed the United States to be in the right.

Outside of his office, however, when he was free from the obligation to defend or oppose, women as well as

men associated with the diplomatic corps found the Secretary of State a genial and happy person, who was far from seeking opportunity to better an opponent. They were aware of the strength of his mind and body, as well as of what might be defined as his heart or soul, and were conscious of a personality in which all of these elements played a part. What saved him from being terrifying or forbidding was the obviousness of a goodwill which dispelled belief that its possessor could harbour malice or unfairness. The outstanding quality of the man, which his previous experience had served to intensify, was his passion for justice. This took such hold of him that he bore the marks of it in every social contact. Thus it was that the women and men of whatsoever nationality who met him felt that his goodwill was more than good nature and that his smiles were not contortions exacted by official exigency. It was the friendliness of fairness that he radiated, and this won their hearts. When Secretary Hughes retired from office, on March 4, 1925, he was not regarded by any envoy accredited to the United States as hostile towards his country or as one obsessed with prejudice against it. None believed him to be callous to any plea based on a denial of justice, or insensible to any equitable demand. The members of diplomatic corps looked upon him as their friend and counsellor and were almost prepared to accept him as their judge.

CHAPTER IV

THE CONTROVERSY WITH THE ALLIED POWERS IN REGARD TO GERMAN OVERSEAS POSSESSIONS. MANDATED TERRITORIES

ANOTHER problem of which the solution was of vital importance to his country confronted the new Secretary of State. It raised the question broadly whether the United States, although not a party to the Treaty of Versailles, had acquired a solid legal right as against its co-belligerents to have a voice in the disposition of what had been Germany's overseas possessions. With respect to the island of Yap in the north Pacific Ocean the issue early became acute.

Article CXIX of the Treaty of Versailles provided that "Germany renounces in favour of the Principal Allied and Associated Powers all her rights and titles over her oversea possessions." Article XXII of the treaty, embraced in the Covenant of the League of Nations, declared that to those colonies which as a consequence of the war had "ceased to be under the sovereignty of the States which formerly governed them and which are inhabited by peoples not yet able to stand by themselves under the strenuous conditions of the modern world, there should be applied the principle that the well being and development of such peoples form a sacred trust of civilization." A plan of tutelage under "advanced na-

tions" willing to accept it and exercised by them as mandatories on behalf of the League of Nations was provided.

There had been discussions between the United States and Great Britain in 1920 concerning the applications of the mandate system over Turkish territory in Mesopotamia, in which the United States had advocated respect for the open-door policy as applied to the exploitation of petroleum. In this connexion Secretary Colby had served notice on Great Britain and the other Principal Allied and Associated powers that the United States as a participant in the war and as a contributor to its successful issue could not consider "any of the Associated Powers, the smallest not less than itself, debarred from the discussion of any of its consequences, or from participation in the rights and privileges secured under the mandates provided for in the treaties of peace." In behalf of the United States as one of the powers directly interested in the terms of the mandates he requested that the draft mandate forms be communicated to his Government for its consideration before their submission to the Council of the League.[6] While there was no specific reference to German overseas possessions to be placed under mandates, they were clearly within the terms of this broad notice.[7] It had also been asserted that President Wilson, in the course of discussions respecting the allotment of former German islands in the north Pacific Ocean to a Japanese mandate, had made appropriate reservation touching the island of Yap on account of its general importance as a base of cable communications.[8] Shortly before the inauguration of the Harding Administration the Allied powers proceeded to pass on drafts of

mandates designed to deal with the Pacific islands, including Yap, and a mandate was approved by the Council of the League of Nations, or sought to be put in effect, which, while purporting to be made impliedly in the name of the United States, as an Associated power, was in fact without its assent.[9]

Such was the situation confronting the new Secretary of State. He proceeded to meet it in characteristic fashion, not merely by relying upon the general policy or interest of his country, or upon the reservation made by President Wilson in early discussions of mandate allotments, but rather by reference to, and enunciation of, what he conceived to be the legal rights of the United States. Such were the tests that he applied to the propriety of what had taken place and of what might take place.

He declared at the outset that the right to dispose of German overseas possessions was acquired only through the victory of the Allied and Associated powers, and that any right accruing to them in consequence of that victory was shared by the United States, and that consequently there could be no valid or effective disposition of those possessions without its assent. He pointed out that as the United States had never clothed either the Supreme Allied Council or the Council of the League of Nations with any authority to bind the United States or to act on its behalf, there had been no opportunity for any decision which could be deemed to affect its rights. He observed that rights such as had thus accrued to it could not be regarded as in any way ceded or surrendered to Japan or to other nations except by treaty, and that no such treaty had been made. He stated that

the fact that the United States had not ratified the Treaty of Versailles could not detract from rights which it had already acquired, and that a treaty to which it was not a party could not affect adversely those rights.[10]

He declared, moreover, that the Treaty of Versailles did not purport to secure to Japan or to any other nations any right in the overseas possessions of Germany save as an equal right therein should be secured to the United States. On the contrary, he observed that it was in favour of the Principal Allied and Associated powers, of which the United States was one, that Germany had made express renunciation—a circumstance indicating that the treaty itself confirmed rather than opposed the position taken by his country.

In relying upon the Treaty of Versailles, Secretary Hughes's argument was simple and straightforward. He contended that in providing, in Article CCCCXL, that the treaty when ratified by Germany and three of the Principal Allied and Associated powers should come into force as between the ratifying powers, it was clearly not designed that upon the occurrence of that event there should remain in Germany any undivided right of sovereignty over the overseas possessions. Germany's renunciation by the treaty was not, he said, intended to be divisible. He maintained that if the treaty had become operative through ratification by only three of the Principal Allied and Associated powers, the renunciation would still have been completely effective, thereby exhausting Germany's entire interest according to the express terms of the treaty, in favour of the five designated powers—that is, the Allied and Associated powers. Consequently, he contended that such three ratifying powers

could have claimed no greater right than the treaty gave, and certainly no exclusive right which the treaty did not confer. When the treaty was actually ratified, he maintained that the same result was seen, and that the failure of the United States to ratify did not qualify the terms of Germany's renunciation.

Here was a case where a sovereign had divested itself of title and had made an executed grant of it for the benefit of designated grantees. Nothing remained to be done by the grantor, and no formal assent by convention on the part of the grantee was requisite when once the treaty went into effect. The case was well outside of the operation of the familiar principle that withholds from a state not a party to a treaty the legal right to share in the benefits derivable from promises remaining to be performed by a party to the agreement in fulfilment of its terms.[11] The United States as the beneficiary of vested rights in territories respecting the disposition of which it was interested could not, according to the Secretary of State, make any valid disposition of them save by a treaty ratified by and with the advice and consent of the Senate. Convinced as to the soundness of this position, he found his course plainly charted. He could not without injustice to his country and the President, as well as himself, remain an acquiescent spectator while the Allied powers proceeded to deal with Germany's overseas possessions as though no American rights were involved. On the contrary, he felt obliged to make it clear that such rights were involved and to gain appropriate recognition of them.

In the atmosphere of goodwill pervading the Conference on Limitation of Armament that convened at Wash-

ington in November 1921, Secretary Hughes found opportunity favourable for his task. He seized it. He conferred with the Japanese delegates and won them over. He then conferred with the heads of the other Allied missions and they acquiesced. A treaty with Japan followed, which safeguarded the rights of the United States in the islands under Japanese mandate.[12] Other treaties of similar character were concluded with Belgium and France concerning territories in Africa, and with France with respect to Syria and the Lebanon.[13] The British Government, however, remained obdurate. The Secretary of State was prepared to present the case before the American people and focus attention on the nature of the British arguments. He did not, however, do so. Negotiations with Great Britain were protracted and had not resulted in the consummation of treaties relating to territories of either German or Turkish origin when Secretary Hughes retired from office. His country profited, however, by his stand.

The achievement of the Secretary of State was not due to any desire on his part to oppose the League of Nations as such, or to delay the perfecting and operation of the mandate system. His real purpose was to prevent the mandatory powers from maintaining and enjoying exclusive privileges in the mandated territories at the expense of the United States and by methods which, when applied to German overseas possessions, appeared to disregard its equal rights therein. His sense of injustice respecting what he believed to be an unwarranted procedure aroused his zeal to thwart it.

CHAPTER V

THE CONFERENCE ON LIMITATION OF ARMAMENT

THE United States sought much of the Principal Allied powers in 1921; and it happened to be in a singularly advantageous position in which to negotiate. It desired, for example, to banish not only the danger of naval aggression against itself, but also the causes productive of fear of such aggression. Again, it sought freedom or opportunity to cut down its own naval expenditures, which for the year ending June 30, 1920 had amounted to more than a billion dollars.

When the Harding Administration assumed control of the Government there were obstacles before it. Anglo-American relations were not in the happiest state. Great Britain, despite the disappearance of formidable naval establishments in Germany and in Russia, was not only maintaining and increasing a vast fleet, but also remained a party to a military alliance with Japan which needed no renewal to keep it alive, and which "ran until it was formally denounced by one of the two parties." This alliance had been viewed by the people of the United States with deep concern.[14] Moreover, it was feared that under certain contingencies the alliance might be utilized as a lever with which to influence or restrain the conduct of the United States, even though no actual force were directed against it. Again, during the period leading up to what ultimately developed as the

establishment of the Irish Free State as a part of the British Empire, the vigour and nature of the sympathy from some quarters in America with the aspirations of an Ireland independent of Great Britain greatly vexed the parent country.

With respect to the Far East and the Pacific there were unsettled questions, which had produced an "international tension."[15] Their adjustment was essential to any harmonious arrangement conducive to limitation of naval armament. They concerned China, as well as the United States, France, Great Britain, and Japan.

Certain conditions served, however, increasingly to strengthen the position of the United States. The first was its ability and determination to attain naval supremacy and make itself mistress of the seas unless arrangement for a naval holiday could be agreed upon. The second was the attitude of the British Dominions. The third was the prospective adjustment of the Irish problem. An impressive feature of the Conference of Prime Ministers and Representatives of the United Kingdom, the Dominions, and India, which assembled at London in June 1921, was the avowal of interest in the position of the United States manifested by the Prime Ministers of Australia and South Africa. Mr. W. M. Hughes and General Smuts brought home to Mr. Lloyd George in no uncertain way that an Anglo-Japanese alliance which under any contingency contemplated hostile action against the United States was—to put it conservatively —incompatible with the best interests of the Empire.[16] He did not need to be informed that such action so directed might split the Empire.

On December 14, 1920, Senator William E. Borah had

introduced a resolution in the Senate authorizing and requesting the President to call a conference designed to secure agreement by the United States, Great Britain, and Japan for an annual reduction for five years in their naval programs.[17] The resolution, which was appended to the Naval Appropriation Bill, became a law on July 12, 1921.[18] In the mean time the Administration had gone much further. Secretary Hughes had sounded the Principal Allied powers as to their willingness to participate in a conference at Washington concerning not only the limitation of armament, but also principles and policies in the Far East. With respect to the latter, China had been invited to take part.[19] President Harding's formal invitation was issued on August 11, 1921. Secretary Hughes subsequently declared that the most significant fact in connexion with it was "the suggestion that the Pacific and Far Eastern questions should be considered in connexion with the Conference." "Without a better understanding of the Far East," he said, "it would have been idle to deal with proposals of limitation of armament."[20]

Lack of space precludes discussion of the negotiations leading up to the acceptance of the invitation. The first session of the Conference convened at Washington on November 12, 1921. It is important to observe, however, that the agenda was well defined and limited in scope. Secretary Hughes was determined to confine the consideration of the participants to matters respecting which an agreement was desirable, and which also seemed to offer a practical basis of accord. The American delegation—composed, in addition to the Secretary, of Senator Henry Cabot Lodge, Senator Oscar W. Underwood and

former Secretary Elihu Root—had given close study to the subjects to be brought before the Conference.

The opening session of the Conference has been dramatically pictured.[21] The place was the Memorial Continental Hall; the hour, ten thirty A.M. Around what was really a single table sat the representatives of the Principal Allied and Associated powers, together with those of Belgium, China, the Netherlands, and Portugal. The heart-warming greeting of President Harding created an atmosphere of hope, but it disclosed nothing. Then came the event of the day and of the Conference—the proposal of the Secretary of State. He submitted in behalf of the United States a concrete proposal, based on four general principles: first, that all capital ship-building programs, either actual or projected, should be abandoned; secondly, that further reduction should be made through the scrapping of certain of the older ships; thirdly, that, in general, regard should be had to the existing naval strength of the powers concerned; and, fourthly, that the capital ship tonnage should be used as the measurement of strength for navies and a proportional allowance of auxiliary combatant craft prescribed.[22] He went further. He specified the particular capital ships which according to his plan not only the United States, but also Great Britain and Japan should scrap; and he offered a scheme of replacement, with a definite maximum of capital ship tonnage for those three powers. No utterance of an American statesman ever caused greater surprise to his hearers—who in this case were the peoples and governments of civilization.[23] Secretary Hughes thus sought to focus the attention of the interested maritime states on what, in his judgment, was the only practical

basis of limiting naval armament. That basis was the actual existing naval strength of the three powers chiefly concerned, the United States, Great Britain, and Japan.[24] Because of the reasonableness of it, it was accepted by the Conference and embodied in a treaty with respect to capital ships, which received the ratification of the signatory powers.[25] Accordingly, the treaty provided for a scrapping and a completion of new ships, whereby the United States was permitted to retain in capital ships 525,850 tons, the British Empire 558,950 tons, Japan 301,320 tons, France 221,170 tons, and Italy 182,800 tons; while replacement tonnage was fixed for the United States at 525,000 tons, for the British Empire at 525,000 tons, for France at 175,000 tons, for Italy at 175,000 tons, and for Japan at 315,000 tons.

It is true that the treaty did not limit the construction of auxiliary craft.[26] Consequently it did not lessen competition or establish ratios with respect to what it did not touch upon. In that regard the powers were necessarily left as free as they were before the Conference. It should be observed, however, that the United States sustained no relative detriment from the omission of what Secretary Hughes earnestly desired to have incorporated in the convention. It was deemed feasible and mutually advantageous to agree to a limitation with respect to capital ships because such an arrangement did not in any way change the relative naval strength of the contracting states on account of what each possessed in the shape of auxiliary craft, or by reason of what each remained free to construct.[27]

The significant fact was that the treaty did in the most practical fashion put an end to competition in the

construction of capital ships, which were regarded by each of the contracting powers as the real fighting vessels of their respective fleets. Through the treaty the United States saved upwards of $254,000,000, apart from the annual expense of maintenance. By the arrangement Great Britain agreed for the first time to a limitation which left her, with respect to capital ships, on a naval equality with the United States. When the treaty became operative, "a naval war of aggression" became, according to the Secretary of the Navy, "an impossibility."[28]

The surest work of statesmen is likely to take simplest form when its authors heed first principles and nothing short of them. The so-called Four Power Treaty concluded during the course of the Conference by the United States, the British Empire, France, and Japan, on December 13, 1921, relating to their insular possessions and insular dominions in the Pacific, is an instance. An agreement comprising a preamble and four articles registered four fundamental conclusions; and these embodied the convictions of Secretary Hughes and of his colleague Senator Lodge, by whom the treaty was reported to the Conference. The first was the necessity of mutual undertakings to respect the rights of the four powers in relation to their territorial possessions concerned. The second was the belief that when grave controversies which baffled diplomacy should arise in respect to those rights, recourse to a joint conference of those powers offered the most feasible and hopeful means of adjustment. The third was the conviction that fullest communications and understandings between those powers as to the most efficient measures to be

taken should be the immediate consequence whenever those rights were threatened by aggressive action on the part of "any other Power." The fourth was the opinion that the Anglo-Japanese alliance of July 15, 1911 should terminate.

In eliminating causes of unrest and in providing for the practical adjustment of controversies which might arise the treaty offered fresh barriers against war and justified the signing of a treaty limiting naval armament. Secretary Hughes declared, on December 10, 1921: "Probably you would not be able to find an international document couched in more simple or even briefer terms; but we are again reminded that the great things are the simple ones. I firmly believe that when this agreement takes effect we shall have gone further in the direction of securing an enduring peace than by anything that has yet been done."[29]

With respect to China the United States had long stood for the maintenance of two co-ordinated principles: first, the territorial and administrative integrity of that country; and, secondly, the so-called "open door," or equality of opportunity for all nations therein.[30] It had thus opposed the acquisition by any foreign state of spheres of influence, because they necessarily tended to impair China's rights of sovereignty and served to close a door which should be open to all the world. Moreover, it had been found that frequently states which through the diplomatic channel professed respect for these principles felt little hesitation in ignoring them when the requirements of national policy appeared so to dictate. Because he was convinced that these postulates of American policy not only were just

with respect to the powers, but also constituted a Magna Charta by virtue of which China might attain the position in the family of nations to which she justly aspired, Secretary Hughes was bent on having all nine powers represented at the Conference give formal adherence to them. Happily, as the foundation of its work on China, the Conference adopted four fundamental principles, which reaffirmed the American stand. These were embodied in a treaty on principles and policies in relation to China.[31] By that treaty, which reproduced with precision the views expressed by the Secretary of State in a note which he had addressed to the Chinese minister at Washington, on July 1, 1921, concerning the attitude of the United States, the powers other than China undertook not to support their respective nationals in seeking:

> (*a*) any arrangement which might purport to establish in favour of their interests any general superiority of rights with respect to commercial or economic development in any designated region of China;
>
> (*b*) any such monopoly or preference as would deprive the nationals of any other Power of the right of undertaking any legitimate trade or industry in China, or of participating with the Chinese Government, or with any local authority, in any category of public enterprise, or which by reason of its scope, duration, or geographical extent is calculated to frustrate the practical application of the principle of equal opportunity.

Thus it was that the signatory powers not only made the "open door" in China a fact, but also transformed the dreams of that country into a hope "that maketh not ashamed."[32]

Affairs relating to China and the Far East loomed so large before the Conference that no less than four treaties, one declaration, and ten resolutions were employed in order to register the understandings of the participating powers.[33] It would be inaccurate to assert that Secretary Hughes was responsible for all of these documents. He would be the last person to make such a claim. This circumstance serves, however, to detract little from the distinction of his achievement as the guiding spirit of the Conference. There were times when the influence and skill and good sense of the man were all needed and exercised. When, for example, M. Briand, the Premier of France and chief of its delegation, returned to his country, and his associates at the Conference announced under instructions their inability to accept the proposed ratio for capital ships, the Secretary of State made a personal appeal to the Premier which assured the assent of France and saved the treaty.[34]

The success of the Conference really hung upon the outcome of a matter not before it—the controversy between China and Japan respecting Shantung. The Peace Conference at Paris had paid scant respect to the equities of China. Moreover, the provisions of the Treaty of Versailles which had marked the transfer from Germany to Japan of territorial and other rights in Kiaochow continued to provoke sharp criticism in the United States. Members of Congress and the American press reflected the widespread and lasting dissatisfaction.[35] It was clear to the Secretary of State that a conference assembling in Washington composed of representatives of the parties to the dispute, as well as of those of the Principal Allied and Associated powers, would be doomed to failure if the

issue were not simultaneously removed from the horizon. He realized, however, that powers which had accepted the Treaty of Versailles could not be expected to unite in a demand that Japan relinquish what she had acquired by the terms of that agreement. Important as might be the adjustment of the dispute before the adjournment of the Conference, Secretary Hughes perceived that such an achievement could not be effected through the instrumentality of that body. Being made aware of the positions taken by both of the states concerned, he became satisfied that direct negotiations between their representatives then in Washington might bear fruit; and he proceeded to apply a method whereby they might be encouraged to act together. He invoked the aid of Mr. Balfour, who readily co-operated. Accordingly, the Secretary of State and the chief of the British delegation invited, respectively, the representatives of China and Japan to confer with them at the building of the Pan American Union. The meeting took place, and a series of conferences was thus initiated. It was not, however, until Secretary Hughes insisted, with the approval of Mr. Balfour, that a sharp divergence of opinion over a certain minor matter be not permitted to frustrate negotiations that final adjustment was assured. In the presence of the two men whose good offices had paved the way for an agreement, an arrangement was signed in behalf of China and Japan. When Secretary Hughes announced, on February 1, 1922, that the controversy had been settled, the delegates to the Conference no longer feared that their own labours would be futile.

When the Conference adjourned, on February 6, 1922, some twelve weeks after its first session, agreements had

been concluded making definite provision to end competitive construction of capital ships, to terminate the Anglo-Japanese alliance, to safeguard territorial rights in the Pacific islands and adjust differences respecting those rights, to put China on her feet, and to adjust the Shantung controversy. The crooked were "made straight and the rough places plain."[36] On February 14, 1922 a weary but contented Secretary of State sailed from New York to Bermuda. His tenure of office had been less than a year, but he had earned a respite from work.

CHAPTER VI

THE CLAIMS AGREEMENT WITH GERMANY. ENLIGHTENING THE PUBLIC. PRESS CONFERENCES. THE TRIP TO BRAZIL

BY the treaty restoring friendly relations with the United States, concluded August 25, 1921, Germany had accepted, as has been seen, definite responsibility to make suitable provision for American claims arising out of the World War and within a wide field. Both the scope and the nature of its obligation were fixed by the terms of the arrangement and the annexed articles of the Treaty of Versailles. The undertaking on the part of Germany seemed to contemplate, however, the use of a mixed commission on which Germany would be represented, as a means of determining the amounts of the American claims, whether preferred in behalf of the Government or of citizens. While the Secretary of State, during the summer of 1922, was in the midst of negotiations with Germany looking to an appropriate agreement to cover the matter, effort was made in Congress to enact a law treating the settlement of these claims as a purely domestic matter, through the medium of a commission that excluded German representation. Secretary Hughes, who was consulted by Senator Nelson, chairman of the Senate Committee on the Judiciary, made objection. He said in part:

> "To undertake to exclude a nation in a case like the present from any participation or voice in matters thus vitally affecting its interests and to deal with such matters by *ex parte* action would be, in my judgment, at variance with the principles and practice generally observed by nations in their relations with each other, and I should think it unfortunate if such a course were initiated by this Government."[37]

This argument was heeded. An agreement was concluded with Germany on August 10, 1922, providing for a mixed claims commission comprising a representative of each country and also an umpire (whose judgment was to be decisive in case of disagreement between the two representatives), who were empowered to determine the amounts to be paid by Germany in satisfaction of her financial obligations under the treaty. Germany agreed, moreover, that the President of the United States might appoint the umpire and that he might be an American citizen.[38] Congress duly appropriated the funds necessary to defray such expenses as might be chargeable to the United States, and the adjudication of claims began.

As the nature and extent of Germany's liability had been fixed by the treaty, the chief function of the Mixed Claims Commission, United States and Germany, was to determine the amounts due in the several cases. But there was also involved in each case the preliminary question whether the particular claim was within the limits of the treaty, and whether the commission had jurisdiction to award damages in favour of the claimant. Secre-

tary Hughes felt it important, however, to keep such issues within narrow bounds. He was unwilling, for example, to press for an award in cases where, in his judgment, the treaty clearly imposed no obligation upon Germany to make payment. In this regard he felt that the good faith of the United States as a contracting party was at stake, and that it should take no step in behalf of any claimants which might be productive of awards the soundness of which could be challenged in any quarter. The importance of such a policy was, in his opinion, accentuated by the final protocol, of January 14, 1925, regarding the distribution of the Dawes annuities, in which it was provided that out of the amount received from Germany on account of those annuities there should be paid to the United States specified sums not only in reimbursement of the costs of the American Army of Occupation, but also for the purpose of satisfying the awards of the Mixed Claims Commission.[39]

President Harding, with the approval of the German Government, appointed as umpire the Honourable William R. Day, formerly an associate justice of the Supreme Court of the United States, who had been Secretary of State in 1898. Failing health compelled Mr. Justice Day to retire shortly after his appointment. With like approval, the President appointed as his successor, the Honourable Edwin B. Parker of Texas. His colleagues the commissioners of Germany and the United States, respectively, were Dr. Wilhelm Kiesselbach, and the Honourable Chandler P. Anderson, an international lawyer of New York.

Before Secretary Hughes relinquished his office, in

March 1925, the Mixed Claims Commission had completed a large part of the task assigned to it. It had performed its functions as an arbitral tribunal expeditiously and impartially and had rendered awards in numerous classes of cases. Its labours continued, however, for an extended period thereafter.

In the spring and early summer of 1922 Secretary Hughes was given favourable opportunity to express his views on the conduct of foreign relations. His experience at the Washington Conference on the Limitation of Armament, as well as the conclusion of treaties with Germany and certain other states, had produced convictions which he did not hesitate to reveal. Moreover, he was glad to make known the methods which he himself was applying. Deploring the lack of an enlightened public opinion with respect to international matters, and acknowledging both the importance and the difficulty of maintaining one, he adverted, in the course of an address before the Chamber of Commerce of the United States, to the constant effort to make known to the public general lines of policy, "to give adequate information as to particular aims and to take the public into confidence to the utmost practicable extent with respect to particular measures." He let it be known, however, that there were inescapable limitations in the most straightforward diplomacy. He put it thus:

> "I am glad to say that in the dealings of this Government with other Powers there are no intrigues, no hidden purposes, no deceptions. Nothing is done or proposed which, so far as its essential character is concerned, could not be shouted from the housetops.

But it does not follow that in good faith and with practical regard to results particular steps can immediately be made public. One reason why the methods of diplomacy are so often misunderstood and criticized is that the necessary amenities of the intercourse with sovereign States are not taken into consideration. I am not an apologist for inept and dilatory practices, or for ceremonial survivals unsuited to our time. But it must not be forgotten that Governments deal with each other subject to the obligations of honorable intercourse between equals. Each must be free to make tentative suggestions and later to withdraw them. Each has its prestige to consider, a point of especial significance. It does not facilitate the reasonable adjustments which must be made, if there is to be resort to practical wisdom and not to force, to create a situation in which nothing can be accomplished without an unnecessary wounding of national pride. Moreover, the conclusive point is that the publication of the details of negotiations must rest on the express or implied consent of both parties. Any Government refusing to recognize this basis would find that it had greatly circumscribed its opportunities to protect the interests of its people. In ordinary dealings between individuals, the advantages of retaining the good opinion of other parties to the negotiations—rivals or competitors—may sometimes be considered negligible, but the good opinion of nations is not negligible. The peace of the world ultimately depends upon the goodwill of peoples alert to everything that touches national honor. The alternative of friendly settlements is resort to coercion, and if you wish

peace, you must pursue the methods of friendly intercourse between Governments and recognize whatever is essentially involved in these methods. There is no other way."[40]

In an address at the commencement exercises of the University of Michigan he spoke in the same vein, emphasizing the conditions which imposed a measure of reticence in the course of negotiations, with which, he said, the most high-minded negotiators could not afford to dispense. He said in part:

"Even the most democratic governments must desire to succeed in their negotiations, and there is no reason why democracy should turn upon itself and deprive its agents of its essential means of defense. Premature disclosures may prevent the accomplishment of the most enlightened aims, giving opportunity for the insidious efforts of selfish interests as well as favoring opposition abroad. . . .

"As the parties to the negotiations deal with each other upon the basis of the equality of States, they must recognize the obligations of honorable intercourse between equals. The confidence with which suggestions are received must be respected. Each must be free to make tentative suggestions and withdraw them. There must be opportunity for the informal discussion which does not represent the final stand of governments, but reflects the proper desire to ascertain to what extent there is accord and the state of mind of each party to the controversy. It is an essential condition of intercourse that representa-

tions made by one government to another or the publication of the details of negotiations must rest upon the express or implied consent of both parties. Any government that refuses to recognize this basis of intercourse would find its opportunities for suitable adjustment of controversies seriously impaired and its influence and prestige greatly diminished."

That his hearers might not misunderstand him or misconceive his attitude he felt it necessary to add:

"With all these considerations, it remains true that there should be no secrecy for its own sake; that general policies should be made clear; that particular aims should be appropriately disclosed; that there should be public announcement of all proceedings to the extent consistent with the essential requirements of negotiation; and that nothing should ever be done by our diplomatic agents which so far as its actual character is concerned could not be publicly proclaimed and justified as being free from artifice and deception and in full accord with American principles."[41]

On such a theory Secretary Hughes dealt with the press. Throughout his term of service he was in daily conference with its representatives who were assigned to the Department of State. Every day they met him and were free to interrogate him. Taking them into his confidence, the Secretary endeavoured to give the necessary background for his statements so that his questioners could discern the exact significance of current reports.

Oftentimes he prefaced his remarks by saying: "This for your own information," or "For your confidential information," or "Not for publication." Statements so prefaced were guarded scrupulously by those who heard them. There was no abuse of the Secretary's confidence. Thus it was that he told the newspaper men everything that could be told, and much that could not be published. He enjoyed heartily these contacts with them. The writer has seen him turn with delight from the consideration of State papers to the diverting task of co-operating with those who were endeavouring to enlighten the American public. They in turn freely acknowledged their debt to him. At the press conference on March 11, 1922 the late Mr. Matthew F. Tighe, the representative of the Hearst newspapers, on behalf of what he described as the "Independent Order of Ungodly Intellectuals," presented Secretary Hughes with a pair of golden shears in token of gratitude from the Washington correspondents. The recipient was deeply affected. In his remarks by way of response, he not only expressed his thanks, but also made clear to his hearers the theory on which he acted. He said that when he declared that there were certain things he could not say, "you will believe that at least I have a conviction that that is so, and that I am not trying to conceal something which you ought to know. And it means that when I say a thing to you to guide you, so far as I can, in your interpretation of the work of the Department, you know that I am not trying, in the language of the street, to put something over and get something to the public which will be in some personal interest of mine rather than to make a straightforward statement of what we are actually doing." No-

body doubted the sincerity of the speaker of these words.

There were occasions when his audiences were chiefly foreigners on foreign soil. The autumn of 1922 furnished an instance. Brazil had sent its Minister of Foreign Affairs to attend the celebration of the centennial anniversary of the independence of the United States at Philadelphia in 1876. Mindful of this courtesy, President Harding appointed the Secretary of State the head of a special mission to represent the United States at the celebration of the centennial anniversary of Brazilian independence in 1922.[42] On August 24th the mission sailed from New York on the U. S. S. *Maryland*. On September 5th she entered the harbour of Rio de Janeiro.

As the vessel passed Paõ de Assucar, the steep granite sentinel that guards the waters of the bay against the floods of the sea, and drew nearer the sharp peak of the Corcovado, which nature itself has dedicated as a veritable spire to the city at its feet, the mission felt the inspiration of the hour. The loveliness of Rio's harbour, alive with its welcoming fleet of ships under a variety of flags, touched the hearts of those who were representing the United States. Secretary Hughes was not unmoved. The salute from every gun that greeted the *Maryland* sounded goodwill. These very tokens of friendliness in one instance, however, perplexed her commander, Admiral Jones. As the ship slowly made her way up the harbour, a Mexican gunboat was sighted, which the admiral believed would participate in the common greeting. The United States had not recognized the regime then functioning in Mexico under General Obregón as

the Government of that country. It was feared that if the admiral returned the salute which he expected the Mexican to give, it might be construed as amounting to recognition. He turned for advice to the Secretary of State, who was standing near him on the bridge. He responded at once: "By all means return the salute if he fires one. You might call the captain over, and tell him that you were merely endeavoring to respond to his appreciated courtesy, and disclaim any intent to recognize his government." This procedure was followed. The gunboat saluted. The *Maryland* returned the salute. The Mexican commander came aboard and was duly enlightened. He maintained the best of spirits and showed no indisposition to hob-nob with the Secretary of State.

The dedication of the site for the American Centennial Monument, on September 8th, afforded Secretary Hughes opportunity to give expression to his feeling. His prefatory words were these:

> "I wish that I might convey to you an adequate sense of the agreeable impressions that I have received during my short visit; of my appreciation of the incomparable beauty of this scene whose enchantment weaves a lasting charm; of a prosperous Capital where the resources of science are marshaled under efficient direction to meet the ever-increasing needs of civic life; of the countless manifestations of the genial disposition and kindliness which characterize the Brazilian people; and above all, of the generous hospitality with which we have been favored by this warm-hearted people whose cordial welcome and constant consideration and friendliness have converted an oc-

casion of official privilege into one of rare personal enjoyment. These beautiful days will ever be a most happy memory."

Secretary Hughes had, however, a more significant message for Brazil and all of South America. He sought to restate and make clear the aspirations of his country with such distinctness as to preclude misunderstanding. Accordingly, on the same occasion he said:

"You, my fellow countrymen of the United States, know full well how sincerely we desire the independence, the unimpaired sovereignty and political integrity, and the constantly increasing prosperity of the peoples of Latin America. We have our domestic problems incident to the expanding life of a free people, but there is no imperialistic sentiment among us to cast even a shadow across the pathway of our progress. We covet no territory; we seek no conquest; the liberty we cherish for ourselves we desire for others; and we assert no rights for ourselves that we do not accord to others. We sincerely desire to see throughout this hemisphere an abiding peace, the reign of justice and the diffusion of the blessings of a beneficent co-operation."

He thought it wise to advert also to the methods whereby the maintenance of peace is assured, especially in a continent where the problem is always acute. Thus he declared:

"But peace has its method as well as war. The method of peace is that of more perfect knowledge

and understanding; of mutual respect for rights with the correlative recognition of obligations; of resort in all difficulties to the processes of reason; of summoning all the ability and strength of the country in the interest of peace with the sincere and intense desire to find amicable solutions instead of causes for distrust and enmity."

During the brief week of his sojourn on Brazilian soil the Secretary was almost overcome by the boundless hospitality accorded the American mission. He spoke on numerous occasions. Among them was a notable dinner given by President Pessoa at the Cattete Palace on September 9th. He made formal reply to Senator Alfredo Ellis, who, with a committee of the Brazilian Senate and House of Representatives, called upon him at the Guanabara Palace, on the 11th. He addressed the Brazilian Bar Association at a luncheon tendered him on the 12th. In the course of these utterances he laid stress upon the devotion of Brazil to liberty and peace as her greatest achievement. He adverted to respect for law as the essential condition of all progress. He pointed to justice, not as an abstraction, but as "the most practical concern of a free people," and to the administration of it by the courts as "unfailingly the measure of our civic success."

When the *Maryland* sailed from Rio on September 12th, there had been revealed to Brazilians a North American statesman who put the achievements of soul and mind above commercial development, and who, rejoicing in her devotion to the cause of justice, congratulated Brazil above all things on her steadfastness to it. Such a

stand taken by the representative of a country oftentimes charged with a distorted conception of the relative value of feats of national accomplishment doubtless had its effect. It was truly interpretative of the best thought in the United States.

After a swift if rough voyage of a fortnight, Secretary Hughes was again in his own country and back at his desk.

CHAPTER VII

EFFORTS TO PREVENT CENTRAL AMERICAN WAR. THE CONFERENCE OF CENTRAL AMERICAN REPUBLICS

WASHINGTON was to become the seat of another international conference within the very year which witnessed the adjournment of that on the limitation of armament; and again the presiding officer was to be the Secretary of State.

In the course of a grave controversy between Honduras and Nicaragua in 1921, Salvador had also become involved. In 1922 there was fear in the United States lest a general Central American war might ensue, which would engage Guatemala. Earnestly desirous of restoring harmony and of averting conflict, Secretary Hughes, in behalf of the United States, invited the Presidents of Nicaragua, Honduras, and Salvador to confer on board the U. S. S. *Tacoma*. The invitation was accepted. On that vessel in the waters of the Gulf of Fonseca, and in the presence of the diplomatic officers of the United States accredited to their respective countries, those executives met. They happily reached an agreement on August 20, 1922, which paved the way for a conference designed to bring the five Central American republics closer together. The conference met in Washington from December 4, 1922 to February 7, 1923, in response to an invitation from the Government of the United States to those

republics. They in turn invited the United States to designate delegates to the conference. The President accordingly appointed Secretary Hughes and the Honourable Sumner Welles, American commissioner to the Dominican Republic, as delegates.[43]

The prestige derived from his achievements in the armament conference doubtless enhanced the influence of the presiding officer. It was, however, an influence the value of which depended upon the care with which it was exercised. The Central American delegates were not assembling at Washington with a view to accepting the dictation of a powerful northern neighbour. Sensitive as to their right freely to object to whatever might be deemed incompatible with their respective interests, they were likely to resist any proposals that the United States might press with vigour. On faintest grounds for suspicion they might be expected to impute to the United States some selfish design as the reason for the wisest proposals. Moreover, the imputation of such a motive was to be anticipated if suggestions, however commendable, were expressed in a harsh tone, seemingly impervious to national sensibilities.

No one could have discerned these conditions more clearly than did Secretary Hughes. His own character might have been enough to allay suspicion. Those who knew him could harbour no doubts as to his motives. He was not, however, content to rely upon his reputation. So with his usual candour he declared frankly what his own country sought. In his speech of welcome, after adverting to the solicitude of the delegates as to the dignity, rights, and interests of their respective nations, he said:

"The Government of the United States has no ambition to gratify at your expense, no policy which runs counter to your national aspirations, and no purpose save to promote the interests of peace and to assist you, in such manner as you may welcome, to solve your problems to your own proper advantage. The interest of the United States is found in the peace of this hemisphere and in the conservation of your interests."

It was the fundamental community of interest of the peoples of the Central American republics that gave them solid cause to maintain peace and to establish barriers against war.[44] That interest forbade unwarranted interference by one country with the affairs of its neighbour. It demanded also the withholding of recognition of new Central American governments propped up on the wreckage of overthrown constitutions and swept into office by the *coup d'état* of a military chief or by a revolution. It called for the obligatory adjustment of justiciable differences before some tribunal local to Central America and chiefly representative of its several republics.

It remained for Secretary Hughes and Mr. Welles to assist their colleagues to grasp these facts and to make sound use of them. This function was performed with success. Treaties were concluded in behalf of the five republics which to a remarkable degree conserved the best interests of Central America as well as those which the Secretary of State had declared to be peculiar to his own country. A general treaty of peace and amity headed the list. In order to uphold constitutional government and maintain free institutions the contracting parties agreed

not to recognize any Central American government which might come into power through a *coup d'état* or a revolution against a recognized government, so long as the freely elected representatives of the people had not constitutionally reorganized the country; and even then not to acknowledge the recognition of any of the persons elected as President, vice president, or chief of state designate, under specified contingencies. Furthermore, recognition was to be withheld from a government arising from the election to power of a citizen clearly ineligible to election by the constitution of his country.[45] There were prohibitions of intervention in the event of civil wars. Interference in the internal political affairs of the contracting states was proscribed. Each party assumed the obligation not to permit persons of any nationality to organize or foment revolutionary activities within its territory against a recognized government of any other; also not to permit persons "under its jurisdiction" to organize armed expeditions or to take part in any hostilities which might arise in a neighbouring country or to furnish money or war-supplies to the contending parties. Moreover, the obligation was accepted to adopt and "dictate" effective constitutional measures necessary to avoid the occurrence of acts of such a character within the territory of each state. Secret pacts between the contracting parties were enjoined. Among the eleven conventions which were also concluded, one provided for the establishment of an International Central American Tribunal,[46] and another for that of international commissions of inquiry.[47]

It is not sought to appraise the extent of the influence of Secretary Hughes on the final result. His colleagues

paid tribute to his courtesy and friendly co-operation. He certainly co-operated. He was, however, far from seeking credit for achievements which for the sake of the cause of Central American justice it was preferable not to claim and possibly to impute to others. This was characteristic of the man. Oftentimes he remained reticent when he saw praise bestowed upon his friends for what he himself had devised. On one occasion he was amused by the zeal of a Washington correspondent to extol the efforts of an American diplomat the peculiar value of whose service was due to the terms of an instruction which the Secretary had himself drafted. He was too big a man to compete with smaller folk intent on acquiring prestige or on enhancing such measure of it as they possessed; and he never regarded a subordinate as a rival.

With respect to the Central American Conference it suffices to observe that the real interests of the United States as well as those of the five republics most intimately concerned were conserved and advanced.

CHAPTER VIII

THE PROPOSAL FOR THE ADHESION OF THE UNITED STATES TO THE PROTOCOL ESTABLISHING THE PERMANENT COURT OF INTERNATIONAL JUSTICE

IT was natural that a man who had himself served for almost six years on the Supreme Court of the United States should regard with favour the judicial settlement of international disputes.[48] Secretary Hughes was familiar with what had been done at the Hague Peace Conferences of 1899 and 1907, and with the obstacles that had thwarted further progress. In 1917, he had publicly dwelt upon the importance of the establishment of a permanent court of international justice.[49] In the summer of 1920 he had made known to the then Senator Harding that he looked upon the advancement of the cause of international arbitration as one of the fundamental principles that should govern the foreign policy of the United States. He was interested in the project for a permanent court of international justice which the advisory committee of jurists (of which his friend Mr. Root was an influential member) had prepared at The Hague in 1920, in response to the invitation of the Council of the League of Nations. Consequently, when he became Secretary of State he was prepared to regard with no adverse bias the court as it was finally constituted by virtue of the statute which, on December 13, 1920, had

been adopted by the Assembly of the League. Before the close of the year 1922 he clearly perceived that the preponderant opinion in the United States was becoming increasingly favourable to a policy which would enable it to become a supporter of the court by participating in its maintenance.

During the third week of February 1923 a slight attack of the grip confined the Secretary to the house and obliged him to cancel his social engagements; but it did not divert him from work. In his study on the ground-floor of his home on Eighteenth Street he gave careful thought to the question whether the court was an institution which merited the support of the United States, and whether also it was feasible for the United States, although not a member of the League, to propose conditions under which it could adhere to the so-called protocol or agreement of December 16, 1920, by means of which numerous states had accepted the statute.

Various considerations influenced his thought. He was aware of the struggles of the United States as a litigant before international tribunals, both at The Hague and elsewhere. He knew from experience how great was the difficulty in obtaining good umpires for particular cases. He had still to arrange for the payment by his country of an arbitral award amounting (with interest) to more than twelve million dollars under a decision which did not satisfy him as a lawyer, and of which the validity was openly challenged by the American arbitrator.[50]

Conscious of the vast importance to the United States of a permanent tribunal of large and distinguished membership to which access could normally be had in a variety of cases which might prove incapable of adjustment

by diplomacy, Secretary Hughes considered whether the Permanent Court of International Justice did not in fact meet the pressing need. He became satisfied that it did. He believed that it offered a forum where justice would always be obtainable, and where it would never be denied a state entitled to an adjudication. On February 17, 1923 he wrote to the President that in view of "the time-honored policy" of the United States in promoting the peaceful settlement of international disputes, and of the fact that it had "at last been found feasible to establish upon a sound basis a permanent international court of the highest distinction and to invest it with a jurisdiction which conforms to American principles and practice," he was "profoundly convinced" that the United States, under appropriate conditions, should become a party to the convention establishing the new tribunal and should contribute its share of the expense of maintenance. Accordingly, in the same note he recommended that the President request the Senate to take suitable action advising and consenting to the adhesion by the United States to the protocol accepting the statute of the Permanent Court of International Justice (but not the optional clause for compulsory jurisdiction); provided that such adhesion should be upon the following conditions and understandings, to be made a part of the instrument of adhesion:

"I. That such adhesion shall not be taken to involve any legal relation on the part of the United States to the League of Nations or the assumption of any obligations by the United States under the covenant of the League of Nations constituting Part I of the Treaty of Versailles.

"II. That the United States shall be permitted to participate through representatives designated for the purpose and upon an equality with the other States members, respectively, of the council and assembly of the League of Nations in any and all proceedings of either the council or the assembly for the election of judges or deputy judges of the Permanent Court of International Justice or for the filling of vacancies.

"III. That the United States will pay a fair share of the expenses of the court as determined and appropriated from time to time by the Congress of the United States.

"IV. That the statute for the Permanent Court of International Justice adjoined to the protocol shall not be amended without the consent of the United States."[51]

On February 24, 1923 the President asked for the consent of the Senate to the adhesion to the protocol by the United States, transmitting to that body a copy of the letter which the Secretary of State had written him on February 17. By this process there was formally initiated an effort which three years afterwards began to bear fruit.[52]

A few days later, Secretary Hughes received from the President a note enclosing a request from Senator Lodge, chairman of the Senate Committee on Foreign Relations, for certain information desired by the committee in order to enable it to reach a decision in regard to the matter of American adhesion to the protocol, and embracing certain categorical inquiries. In the first (which is the only one here discussed) the President was

requested to advise the committee whether he favoured an agreement obligating all powers or governments which were signers of the protocol creating the court to submit to it all questions about which there was a dispute and which could not be settled by diplomatic efforts, relative to a specified class of cases. The Secretary submitted a reply on March 1, 1923, which the President transmitted to the Senate the following day with his "most hearty approval."[53]

He stated that he understood that the question was not intended to elicit the President's personal opinion, but rather whether as the executive, in the exercise of his constitutional authority to negotiate treaties, he favoured the undertaking to negotiate a treaty on the part of the United States with other powers creating such an obligatory jurisdiction. As so understood, Secretary Hughes said that he thought that the question must be answered in the negative. In support of this conclusion he took pains to call attention to the numerous instances in which the Senate had clearly defined its position in opposition to such an arrangement, and declared that in the light of the record it would seem to be entirely clear that until the Senate changed its attitude, it would be a waste of effort for the President to attempt to negotiate treaties providing for obligatory jurisdiction of the scope stated in the committee's first inquiry.

By this process the Secretary sought to spike the guns of those who objected to adherence by the United States to the protocol on the ground that such action did not oblige the contracting parties to adjust their controversies before the court. He was not himself personally opposed to arrangements for the obligatory arbitration or

adjudication of international differences of legal aspect before a competent court; but he never allowed his own inclination to encourage the President to negotiate a treaty of which the approval by the Senate was certain to be withheld. In March 1923 Senator Lodge informed him that a treaty obligating the United States to adjust differences before the Permanent Court of International Justice would not receive a dozen favourable votes in the Senate. It was the very fact that adhesion to the protocol would not compel the United States to accept the principle of obligatory arbitration and thus not defy the conservatism of the Senate in that regard which made it feasible, in the judgment of Secretary Hughes, for the President to appeal to that body for its approval of the plan proposed. For that reason he derived amusement from the privilege thus given him to show what had in fact thwarted the efforts of previous Administrations to bind the United States to accept the principle of obligatory arbitration of really grave differences without reservation, and how the new proposal fully respected the views of the Senate on the subject.

Mr. Hughes discussed the proposal for adhesion to the protocol in an address before the American Society of International Law in April 1923.[54] Certain of his points deserve attention. He adverted to the fact that the court had been established under a so-called statute which defined its organization, jurisdiction, and procedure, and that while the plan was adopted by the Assembly of the League, it could not be put into effect by action of the League, and that accordingly it was necessary to have a special international agreement concluded by the states which were willing to accept it. Thus, a special protocol

or agreement, with the statute of the court annexed, was drawn up and sent to the nations for approval. "The Permanent Court is thus," he declared, "an establishment separate from the League, having a distinct legal status created by an independent organic act."

He called attention to the fact that the Hague project of 1907 for the establishment of a permanent court had failed because it was found impossible to agree upon the method of selecting the judges. He pointed out that what had proved to be an insuperable obstacle was the attempt to make a literal application of the principle of the equality of states, permitting all states to join in the election of judges on precisely the same footing, thereby giving the small powers a great majority of votes, which would control an election. He contended that this difficulty had been surmounted in the Case of the Permanent Court of International Justice by provisions whereby the two groups of powers in the Council and the Assembly of the League should act concurrently. He commented on the fact that the Council was a small body in which the great powers, Great Britain, France, Italy, and Japan, were permanent members, the others being non-permanent members, and also that the Assembly embraced all the members of the League. As each of these bodies in the election of judges was obliged to proceed independently, and as it was necessary for the successful candidate to have a majority of the votes in each, the Secretary stated that the great powers were able to vote in the small group of which they were permanent members, while all the smaller powers could vote in the other group, and that in this way each group of powers had a check on the other. He expressed the view that it was as

certain as anything human could be that their concurrent action would result in the election of impartial judges.[55] Again, he noted the fact that the Council and Assembly, in electing judges, "do not act under the Covenant of the League of Nations"; and he emphasized the fact that the election was held under the provisions of the statute of the court, which rested upon a special international agreement. He declared that if there was any better plan safeguarding the essentials of an international court, it had never been suggested. He maintained that the League did not control the court, and that it was an independent judicial body.[56]

In conclusion he asserted that the support of a permanent court as an institution of peace would be a powerful influence in the development of the will to peace. "I hope," he added, "that the United States, in deference to its own interests and in justice to its ideals, will do its part."

Somewhat later Secretary Hughes took issue with those who maintained that "we should perfect international law before we have a permanent court of international justice." He declared that they ignored the fact that in the mean time there must be arbitral tribunals to decide controversies of a justiciable nature. He said: "We cannot in deference to our historic policy refuse to submit such cases to arbitration, and we cannot await for this purpose the perfecting of international law. . . . If Kent had been compelled to wait for a complete American system of equity jurisprudence before a court of equity was set up to which he could give his abilities, the evolution of our equity jurisprudence would have been impossible. A permanent international tribunal

can accomplish for international law in large measure what Kent, and the judges who have followed him, have achieved for the equity jurisprudence of the United States."[57]

It may be unnecessary to venture comment on the effect of the influence of Secretary Hughes upon his countrymen or upon the Senate. The effort has been made rather to indicate the reasons why he put faith in the court and sought to pave the way for the United States to share in the privilege of maintaining it.

CHAPTER IX

RELATIONS WITH RUSSIA

IT was a hungry as well as Bolshevik Russia that confronted the United States when the Harding Administration entered upon its duties in March 1921. Collapse of commercial and industrial activities was the harbinger of economic prostration. Then famine swept over the land. The United States could not allow Russians to starve when it had food to spare or the means of obtaining it. Nor could it trim its generosity according to the political tenets of a stricken people. The American Relief Administration, supported by public and private aid, devoted in the course of twenty-one months some sixty-six million dollars to the cause of relief.[58]

Benefits of a different character were, however, eagerly sought by the regime functioning in Russia, which had not been recognized as the Government thereof by the United States. As early as March 23, 1921 the Secretary of State received from the Soviet Government a proposal which contemplated the sending of a special delegation to the United States to negotiate a trade arrangement between the two countries. There were obstacles in the way. In his response Secretary Hughes pointed out that Russia in its plight of unproductiveness could expect no resumption of trade until the economic bases of production were securely established. "Production," he declared, "is conditioned upon the safety of life, the recognition by firm guarantees of

private property, the sanctity of contract, and the rights of free labor." He added that if "fundamental changes" were contemplated which involved due regard for the protection of persons and property and the establishment of conditions essential to the maintenance of commerce, convincing evidence of the fact would be gladly received; but that until such evidence was supplied, the Government of the United States was unable to perceive that there was any proper basis for considering trade relations.[59] Although no such evidence was forthcoming, and no agreements of any kind concluded, and no recognition accorded the Soviet regime, Secretary Hughes had no disposition to take any undue advantage of Russia's vicissitudes. This was manifest in connexion with the Conference on Limitation of Armament. "In the absence of a single, recognized Russian Government," he felt that the protection of legitimate Russian interests devolved as a "moral trusteeship" on the whole Conference. He declared that in the absence of Russian participation it was not to be conceived that that body would take decisions which were prejudicial to those interests or would in any manner violate Russian rights.[60] Again, in declining to participate in the Genoa Conference, through which the Allied powers, in the spring of 1922, sought to find a basis for the recognition of Soviet Russia, Secretary Hughes manifested the same attitude, declaring that while awaiting the rehabilitation of Russia, nothing should be done looking to the attainment of economic advantages in that country which would impair the just opportunities of others, and that the resources of the Russian people should be free from any foreign exploitation adverse to their interests.[61]

This scrupulousness to deal fairly with the people of a country with whose Government he had little in common was constantly seen, and manifested itself in the most routine matters. On one occasion a representative of the Soviet interests in a case before an American tribunal sought a conference with the Secretary of State in the hope of obtaining from him a statement or suggestion which might serve to strengthen the position of the claimant before the court. The Secretary happened to assign the task of conference to a particular subordinate who spoke without great respect for the Soviet pretensions. Secretary Hughes stopped him short, and said: "Hold on. Mr. — has asked for an appointment with me, I cannot see him; but you must. He is entitled to a perfectly fair hearing and to be treated courteously. I don't see how we can help him, but he has some strong equities on his side. Don't forget that." The lawyer visited the Department and had his conference; but he never knew of the interest of the Secretary in the nature of the reception that was accorded him.

Secretary Hughes was prodded anew in 1923 to recognize the Soviet regime. He took advantage of the occasion to give the precise reasons why Russian recognition was withheld. He did so in correspondence with those who opposed as well as those who favoured the according of recognition. There is thus recorded the ground on which he resolutely stood.[62]

There were really two distinct alternatives which were pressed upon the Secretary of State. One was that the United States should recognize the Soviet regime functioning in Russia as the Government of that country; the other, that that regime should be accorded *de*

facto recognition; that is, that the fact of its existence and control of Russian affairs be formally recognized without prejudice to the right of the United States ultimately not to regard it as the Government of Russia with which normal diplomatic intercourse should be had. It was a plausible contention that inasmuch as the Soviet authorities were in the saddle and controlled the reins of government, admission of the fact would further opportunities for trade and leave in abeyance the solution of controversial points. In this connexion it was suggested that the stability of the regime should be made the test whether it should be dealt with and recognized in some formal way.

In the mind of the Secretary of State grave objections opposed either course and some of them were not overcome by the alleged stability of the Soviet regime. He noted the sharp difference between the political and economic aspects of the case, and he declined to be misled by a confusion of them. He perceived, as has been seen, that trade with Russia depended upon economic conditions in that country rather than upon its political relations with the outside world. He did not believe that the power of Russia to buy what it needed hung upon trade agreements so much as upon the possession of something to sell through its own productivity. It was an application of the old adage: "He that would bring home with him the wealth of the Indies must carry the wealth of the Indies with him."

Secretary Hughes understood clearly the political effects likely to result from the according of any recognition howsoever described. He was aware of the vagueness of the distinction between the legal consequences of

a so-called *de facto* recognition, and those resulting from normal recognition. Avoiding discussion of that distinction, or of reasons why it might be undesirable for his country to accord *de facto* recognition to entities from which it was determined to withhold normal recognition, he proceeded to consider why the latter should be withheld from the Soviet regime. Thus, the question before him was not whether there should be established a formal relationship with that regime, implying technically something less than recognition, but rather whether the Soviet authorities should be recognized and dealt with as the Government of Russia.

In stating his objections Secretary Hughes was careful not to lay stress upon irrelevant matters. Thus he made it clear that the United States was not concerned with the "question of the legitimacy of a government as judged by former European standards," or with the domestic and internal concerns of foreign states, among which was the matter of determining the character and personnel of the government that was desired. He declared that while his country had emphasized the value of expressed popular approval in determining whether a new government should be recognized, it had never insisted that the will of the people of a foreign state might not be manifested by long-continued acquiescence in a regime actually functioning as a government. He was far from intimating that a Soviet government, sufficiently entrenched and long endured, might not merit recognition if other conditions were met. He added, however, that when there was a question as to the will of the nation, it had been deemed a wise precaution to give sufficient time to enable a new regime to prove its sta-

bility and the apparent acquiescence of the people in the exercise of the authority that it assumed. He stated that such deliberation was not in derogation of the democratic ideals cherished by the American people, and constituted no justification of tyranny in any form, but proceeded rather upon a consideration of the importance of international intercourse and upon the established American principles of non-intervention in the internal concerns of other peoples.[63]

The chief obstacles which in the opinion of Secretary Hughes forbade recognition of the Soviet regime were the marks of bad faith exhibited by those who essayed to rule the Russian state. This delinquency had assumed various forms. It was seen, for example, in the repudiation of debts contracted by the antecedent Russian authorities, and by acts confiscatory of rights of private property. Such conduct he regarded as inherently wrongful, not merely because it proved injurious to American interests, but rather for the reason that it was contemptuous of American rights. He did not rest his grievance on the ground that the Soviet authorities had failed to make a gesture favourable to the fair adjustment of American claims, but rather on the assertion that they had been guilty of conduct which was in itself subversive of justice. That conduct he was unwilling to condone. Knowing that recognition would strengthen the sinews of those who had committed it, he declined to furnish the desired aid.

In response to a telegram to President Coolidge from Mr. Chicherin, Commissar for Foreign Affairs of the Soviet Government, December 16, 1923, the Secretary said in part, in a communication made through the American consul at Reval:

"If the Soviet authorities are ready to restore the confiscated property of American citizens or make effective compensation, they can do so. If the Soviet authorities are ready to repeal their decree repudiating Russia's obligations to this country and appropriately recognize them, they can do so. It requires no conference or negotiations to accomplish these results which can and should be achieved at Moscow as evidence of good faith. The American Government has not incurred liabilities to Russia or repudiated obligations."[64]

This lack of Soviet good faith assumed a more serious form. There was abundant evidence that those who controlled the Moscow Government, and who sought American recognition, with its wide opportunities for friendly intercourse, were at the same time closely associated with an effort to overthrow the institutions on which the United States was established. The endeavour went far beyond a zeal merely to inoculate American opinion with a particular economic theory. It took concrete and sinister form. The Department of State possessed evidence establishing the unity of the various Bolshevik organizations known as the Communist party, the so-called Soviet Government, and the Communist Internationale, all controlled by a small group of individuals constituting the political bureau of the Russian Communist party.[65] That evidence also established a solid connexion between the Moscow group and its agent or representative in the United States in the form of the American Communist party, and its legal counterpart, the Workers' party. The Secretary was able to declare in 1924:

"The essential fact is the existence of an organization in the United States created by, and completely subservient to, a foreign organization striving to overthrow the existing social and political order of this country. The subversive and pernicious activities of the American Communist Party and the Workers' Party and their subordinate or allied organs in the United States are activities resulting from and flowing out of the program elaborated for them by the Moscow group."[66]

With the diplomatic representatives of a regime committed to such a program the Secretary of State was unwilling to deal; for he deemed it highly improbable that they would be disposed or able to heed the principle which demands of a diplomat the obligation to respect the institutions of the state to which he is accredited. Secretary Hughes had no desire to experiment with the potentialities of Soviet officials, and still less to burden his own Government with the special task of safeguarding itself against communist activities inspired or abetted under the roof of a Russian embassy at Washington. Neither President Harding nor President Coolidge entertained a different view. The Secretary of State remained unyielding.[67]

Notwithstanding his opposition to recognition, Secretary Hughes was far from disposed to interfere with the general efforts of the Russian state to conduct its foreign affairs through the medium of the Soviet regime. He took pains to give no cause of umbrage. He expected, for example, American diplomatic officers in foreign capitals to maintain courteous, if informal, relations

with their colleagues in the Soviet service. Nor was he willing to raise his voice against the use and enjoyment by a Soviet ambassador at Peking of the Russian mission premises located within the legation quarter in that city. Again, he was not inclined to interfere with the proposed adherence by Russia, through the Soviet regime, to a treaty relating to Spitsbergen which had been concluded by a group of interested states, including the United States, on February 9, 1920, provided it was clearly understood that such action should not be deemed to constitute American recognition of that regime.[68]

Secretary Hughes was innocent of vindictiveness or petulance. American relations with Russia were, in his judgment, to be dealt with on a broad, impersonal basis, established on a sure foundation. The nature of it he never hesitated to make clear. So long as he remained in office he encountered no disposition on the part of the Soviet authorities to acquiesce. Nevertheless, his exposition of the principles which guided him served to safeguard the United States against a false step while he held office, and also to point to a safe course for future administrations.

CHAPTER X

TREATIES TO PREVENT THE SMUGGLING OF INTOXICATING LIQUORS INTO THE UNITED STATES

With the adoption of the Eighteenth Amendment to the Constitution and the enactment of the National Prohibition Act the United States found itself involved in international controversy.[69] There were two distinct sources of foreign grievance. These became well defined in 1923. One concerned the right of the United States to forbid the entry into its territorial waters of foreign vessels laden with intoxicating liquors. The other concerned its right to go outside of those waters and attempt to thwart on the high seas the efforts of foreign vessels to introduce such liquors unlawfully into American territory.

On April 30, 1923 the Supreme Court of the United States handed down a decision interpreting the National Prohibition Act and declaring it to have been the design of Congress to forbid the carrying of intoxicating liquors, as sea stores, for beverage purposes through the territorial waters or into the ports of the United States by foreign as well as domestic vessels.[70]

A wail went up from foreign chanceries when it dawned on them that the United States would enforce the act as thus interpreted. They complained that the forbidding of their ships to enter American waters if carrying intoxicating liquors as ships' stores under seal,

or if calling at American ports with sealed cargoes of liquors not to be delivered within American territory, was a departure from international comity. They denounced as arbitrary the disregard by the United States of the laws of some countries which required their vessels to take on board intoxicating liquors as a part of the ships' stores.[71]

The Department of State was of course bound to regard the views of the Supreme Court as authoritative and beyond discussion. The Secretary of State had no right to encourage hope that the act would not be enforced. Moreover, he was not disposed, and felt no obligation, to admit that the broad prohibitions of the act violated any rule of international law. As to the sheer right of the United States to keep liquor-laden ships of any flag out of its waters he entertained no doubt. Nevertheless, he perceived the dilemma in which his country found itself. Its officers could not conscientiously evade a law which they had sworn to support; and, on the other hand, so long as that law remained unrepealed and was enforced, the irritation and resentment of several maritime states was bound to impair the good relationship which the United States had every desire to maintain with them. Again, Secretary Hughes was aware of the strength of the equities of the complaining states. He realized that their objections were entitled to special consideration if the National Prohibition Act proscribed in fact more than the Eighteenth Amendment demanded. Therefore he gave careful thought to the question whether it would be possible for the Government of the United States to heed faithfully the requirements of the Amendment and at the same time lawfully permit

the entry into American waters of cargoes or stores of intoxicating liquors on foreign vessels under conditions precluding consumption within American territory. He felt obliged to inquire particularly whether the statutory law did not go further than the Constitution made necessary properly to enforce it. He concluded that it did.

His reasoning was clear. He observed that the Eighteenth Amendment, like all constitutional amendments, was self-executing only so far as it was susceptible of execution and was intended to be self-executing according to its terms. That amendment did not profess to be self-executing in so far as penalties and forfeitures were concerned. The determination of them was left by the amendment to Congress. Not being determined by the Constitution itself, they remained lodged within the discretion of the legislative power, and having such a character, they were not withdrawn from the treaty-making power.

Congress had itself acted on this theory by exempting from the penalties and forfeitures of the act intoxicating liquors in transit through the Panama Canal, although the Canal Zone was territory over which the amendment was applicable. That body had thus conceived that the Constitution did not forbid transportation in or through American territory so long as no use of intoxicating liquors for beverage purposes was involved. The Supreme Court had referred in its opinion, without objection, to this exercise of the discretion of Congress. Secretary Hughes saw the tremendous significance of this exemption. It gave solid support to his contention that the amendment could be properly enforced so as to prevent the introduction of intoxicating

liquors for beverage purposes; and that an introduction which made reasonable provision against such consumption did not necessarily contravene the fundamental law.

Accordingly, he devised a treaty to meet the situation; for he was well aware of the fact that the matter of penalties and forfeitures not only was within the discretion of Congress, but also lay equally within the treaty-making power of the Federal Government and thus was something susceptible to an international agreement under the action of the President and the Senate.[72] In a word, he proposed to carry out the true intent of the constitutional amendment.

The Secretary realized, however, that a treaty of such purport would constitute a distinct concession to the policies and desires of friendly maritime states rather than a performance of any legal obligation due to them, and that it ought not to be yielded unless such favoured nations were willing on their part to waive a point of law, and so facilitate the efforts of the United States to thwart "rum-running" on the high seas. What Great Britain and other maritime states wanted of the United States was the non-assertion of the right to keep intoxicating liquors outside of its territory under conditions such that they would not be used for beverage purposes therein. What the United States wanted of the same countries was the non-assertion of the right to object to certain of its endeavours outside of the three-mile limit to prevent the smuggling of such liquors into its own domain.

In the absence of treaty the United States found itself baffled in its efforts to check rum-running. This was partly due to the fact that foreign ships with cargoes of

intoxicating liquors designed for American consumption lay at anchor in relatively close proximity to the ocean coast, and yet remained technically outside of the seaward limits of the United States, which extended three marine miles from low-water mark.[73] The work of smuggling was greatly facilitated by the short distance to be traversed by small, swift craft operating between the foreign floating bases and the shore. The vendor ship outside of the three-mile limit was assured of customers, the volume of whose patronage did not necessarily entail the consummation of any prior arrangement.

The foreign vessel which simply lay outside and sold liquors to any customers enjoyed an immunity which under international law could not well be challenged. So long as the vessel or those who owned it did not participate in some definite attempt to introduce unlawfully the forbidden articles into American territory, the ship could not lawfully be searched or seized. To lie in wait for purchasers was not illegal; nor was the bare sale of intoxicating liquors necessarily of such a character. The efforts of the United States to assert jurisdiction on the high seas even over foreign ships caught in the act of participating in attempts directly to introduce unlawfully their cargoes into American territory had given rise to diplomatic controversy.[74] In the cases of vessels under the British flag there was sharp divergence of opinion as to what the law of nations permitted. In the summer of 1923 there seemed to be little hope of accord. While the British Government professed sympathy with the efforts of the United States to protect itself against smuggling, and a lack of interest in the fate of vessels fraudulently registered under the British flag, the Foreign Office was

rigid in its denial of the propriety of certain seizures which the Department of State believed to be justified. Every doubtful case of seizure was the subject of immediate protest.

Those who were impatient with the failure of American authorities to check the smuggling that actually took place urged the Government to go outside the three-mile limit and assert jurisdiction over the ships which successfully plied their trade. The Secretary of State was too careful a lawyer to yield to the temptation. He was aware of the experience of his country in interfering with British vessels in Bering Sea beyond the three-mile limit, and also of the price that had been paid for such action. He said: "This Government cannot condone or encourage lawless action by American authorities on the high seas which might be denounced as such by an international tribunal, even with a view to upholding the principles of the Eighteenth Amendment."[75] He was satisfied that the only feasible method of extending the jurisdiction of the United States was through the consent of states whose vessels might be affected. He realized that a consent to searches and seizures within wide range, such as twelve miles from shore, would greatly facilitate the prevention of smuggling and proportionally enhance the difficulties of vessels engaged in that occupation. Accordingly, he proposed in substance that a state which sought permission for its vessels to bring into American waters intoxicating liquors under seal should yield to the United States the right to extend its jurisdiction so as to enable it to make searches and seizures well out on the high seas, under reasonable conditions, to be agreed upon.

Drafts of treaties embodying the twofold plan were submitted, in June 1923, to a group of maritime states, which were at first seemingly indifferent to the proposal. The several recipients other than Great Britain were disposed to await the action of that country; and while Lord Curzon remained its Secretary for Foreign Affairs, Great Britain made no favourable response. In the United States, Secretary Hughes's proposal, in so far as it was known, evoked little enthusiasm. Practical difficulties with respect to seizures on the high seas were magnified, and the entire suggestion encountered at first a cool welcome. This circumstance was not calculated to hasten agreement. Simultaneously the increasing success of smuggling operations inspired the belief in certain quarters that the United States was not bent on suppressing the traffic. The sense of justice of the English people began, however, to manifest itself. There was an awakening to the abuses to which the British merchant flag was being put. The unwisdom and unreasonableness of attempting to shield British ships from the consequences of operations designed to violate the fundamental law of a friendly state became apparent. It was felt that the United States was entitled to a treaty which would simplify its efforts to defend itself against rum-running.

One day in November 1923 Mr. Chilton, the counsellor of the British embassy at Washington, unexpectedly brought to the Department of State the text of a counter-draft of a treaty. It was in the main so responsive to the proposals of Secretary Hughes that it offered an obvious basis of agreement. Minor changes acceptable to both countries were easily worked out, and a treaty was

signed by him and Sir Auckland Geddes, the ambassador, on January 23, 1924.[76] It was the desire of the British Government, and the treaty as finally negotiated so provided, that the distance from the shore for the permitted search and seizure should be an hour's run therefrom instead of twelve geographical miles. The treaty fared well in the Senate, which, by a vote of sixty-one to seven, advised and consented to ratification on March 13, 1924.[77] Other maritime powers announced a readiness to accept substantially similar agreements. Before the close of the year treaties to prevent the smuggling of intoxicating liquors into American territory had been signed with Germany, Sweden, Norway, Italy, Panama, and the Netherlands.[78] The foreign powers having thus agreed, it was left for the Congress to supply whatever legislation was necessary in order to confer adequate jurisdiction on the courts of the United States to carry out the purposes of the treaties.

By this process both the United States and the foreign signatory states were able to procure what each side wanted without sacrificing principles or policies to which they were committed. The achievement was due to the resourcefulness of a Secretary of State whose knowledge of the constitutional law of his country, as well as of the canons of international law, enabled him to devise what harmonized with the requirements of both. The liquor treaties marked a feat of diplomacy; yet they were the accomplishment of a lawyer rather than of a diplomat. They illustrated the truth of a remark that Secretary Hughes made in the autumn of 1925. "After all," he said, "the State Department is primarily a big international law office."

CHAPTER XI

TREATIES WITH TURKEY, MEXICO, AND GERMANY

THE year 1923 resulted in the signing of treaties of major import with Turkey, Mexico, and Germany.

A peculiar situation confronted the United States when it entered into negotiations with Turkey at Lausanne in the spring of that year. The Turk had regained control of much of the territory of which he had seemingly been deprived by his enemies. He had driven the Greek from Anatolia and Smyrna, the Frenchman from Cilicia, dislodged the Italian in Konia, and returned victorious to Constantinople. Where he stood supreme he intended to remain supreme, and to negotiate with former enemies or friends on terms of equality and reciprocity. He scoffed at the still unratified treaty of Sèvres, by means of which in 1920 his enemies the Allied powers had sought to deprive him of Constantinople, to lop off other territory, and to reduce him to a state of vassalage.[79] He was determined to rid himself of the fetters of the system of extraterritorial jurisdiction, born of concessions of earlier centuries, known as the "capitulations," and confirmed by modern treaties, whereby foreign officers were permitted to act as judges on Turkish soil in various classes of criminal and civil cases involving alien offenders.[80] He was opposed to carving out of the Ottoman domain a new state for the Armenians.

He was bent on controlling economic and educational developments within his own territory.

It is unnecessary to trace the progress of the nationalist movement responsible for these aspirations. It suffices to note that a new Turkey—a republic resolved to enjoy the fullest attainable measure of independence and liberty—had supplanted the wreckage of the Ottoman Empire, from which the Sultan Abdul Hamid himself had been obliged to flee. Nothing short of force could win concessions deemed by the Turk to impair conditions regarded by him as fundamental for the national life. The abolishment of the regime of the capitulations was one of these conditions. Neither the United States nor the Allied powers were disposed to employ force for the sake of restoring that regime and of re-establishing extraterritorial jurisdiction. When, therefore, those powers were willing to yield the point by treaty, Secretary Hughes found it impossible to make better terms. Yet he derived satisfaction from the fact that the abolishment of the old regime was seemingly effected by treaties to one of which his country might be a party rather than by the unilateral act of Turkey.

Throughout the negotiations Secretary Hughes was confronted with the alternative whether it was better for his country to take what it could get or to sign no treaty whatever. The unattainable loomed large and he saw it in its full proportions. No concessions safeguarding the Armenians or establishing an Armenian national home were attainable. No word of regret for the atrocities incidental to the deportations of Armenians in 1915–1916 was to be uttered by Turkey. No respect was to be acknowledged for the right of expatriation as applied

to persons of Turkish origin who without Turkish consent became naturalized American citizens and were subsequently found on Turkish soil. Against these considerations he weighed carefully the advantages offered by a treaty. In the first place, it furnished the means of regularizing the position of the United States, whose relations with Turkey after the armistice of 1918 had been anomalously maintained, and after September 1919 through the medium of a high commissioner in the person of Rear-Admiral Bristol, with a naval detachment under his command. Such regularization the Secretary of State deemed imperative for the adequate protection of American interests, particularly after the Allied powers put into effect their treaty of peace with Turkey and resumed diplomatic relations.[81] Again, the proposed treaty afforded the United States the same general privileges and rights as were available to the Allies, including the freedom of the Straits—a freedom which for the first time in their history the Turks were willing to yield, not only to foreign merchant-ships, but also to foreign vessels of war.[82] In matters of personal status, domestic relations, and personal succession American citizens in Turkey were to enjoy the exclusive jurisdiction of American tribunals or authorities sitting outside of Turkey, and they were to be given the full benefits of the execution of the Declaration regarding the Administration of Justice in Turkey, which the Turkish delegation had addressed to the peace conference at Lausanne, on July 24, 1923.[83] American religious, educational, and philanthropic institutions recognized as existing in Turkey before October 30, 1914 were to continue to enjoy Turkish recognition, and the Turkish Government announced a

readiness to examine favourably the status of such institutions of a similar character actually existing in Turkey on the date (July 24, 1923) when the treaty of peace with the Allies was signed, with a view to regularizing their position.[84]

Conditions governing intercourse, and the rights of nationals of either country within the territory of the other, were to be established on the broad basis of international law and reciprocity. Unconditional most-favoured-nation treatment was to be applied to import and export duties, while national reciprocal treatment was to be applied to tonnage, harbour, and pilotage dues. The most modern provisions with respect to consular officers were to find a place in the treaty. Throughout the negotiations the Secretary of State had been careful to stand for the principle of the open door with respect to commercial relations, thereby insisting upon equality of commercial opportunity for American nationals. From this principle he never departed; nor was his policy at any stage of negotiations determined by any particular concession which had been granted to any American citizens.[85] Secretary Hughes was convinced that the treaty, supplemented by the declarations and letters accompanying it, ought to be accepted. He felt that his country would suffer should he break off negotiations because of his inability to gain more than the Allies were willing to accept, or for the sake of concessions to obtain which the United States was not disposed or prepared to fight. Accordingly, he authorized the American plenipotentiary, Mr. Joseph C. Grew, to sign the treaty, which he did on August 6, 1923.[86]

Never did the Secretary feel that he ought to forego a

treaty on account of Armenia. He declared that the United States had at an earlier time failed to stand by Armenia when American support might have been decisive; and he contended that after having relinquished the opportunity, it was too late in 1923 for American intervention to be feasible or wise. He pointed to the fact that the Turkish atrocities of 1915–1916 towards the Armenians, although productive of American protests on grounds of humanity, did not cause the breaking off of diplomatic relations with Turkey, which were maintained until Turkey herself, on April 20, 1917, severed relations after the United States became the enemy of Germany. He adverted to the fact that the United States did not declare war on Turkey. In 1924 he said:

> "If there ever was a time when we could have successfully intervened and have backed up our intervention by armed forces, it was early in 1919 when we had a large army abroad and were in a position to prosecute such a policy if deemed advisable. But this opportunity passed. It should be added that, contrary to an impression which is somewhat widespread in this country, this Government, while it has always exerted its influence in a humanitarian way, has not assumed political obligations with respect to the Armenians or other Christian minorities in the Near East."[87]

It will be recalled that President Wilson, pursuant to a request emanating from the Allied powers early in 1920, and in harmony with an article which was incorporated by them in the Treaty of Sèvres, undertook to arbitrate on the boundaries of Armenia, rendering his

award in November of that year. His delimitation served in fact to carve out of the Ottoman domain a considerable area on its eastern front. When the Treaty of Sèvres, which never became binding upon the states in whose behalf it was signed, was thwarted by Turkey and abandoned by the Allies, the legal basis of President Wilson's award disappeared. Obviously he could not in his arbitral capacity divest the Turkish sovereign of Turkish territory without its consent; and when that consent was withheld and the Allied powers were indisposed to compel Turkey to yield it, the United States was not in a position to demand that the award be respected or accepted as indicating the proper limits of an Armenian national home. These circumstances led Secretary Hughes to feel that the Wilson award shed no light on the solution of the question whether the proposed Treaty of Lausanne should be accepted by his country.

Nevertheless, opposition to the treaty manifested itself in and out of the Senate, sufficient in strength to withhold a final decision by that body until long after Secretary Hughes had retired from office. Distrust for the new Turkish Republic, dissatisfaction over the loss of the regime of the capitulations, and, above all, a sense that the treaty manifested the final abandonment of the Armenians were influential factors. In certain quarters it was felt that the treaty reflected unconcern as to the fate of a helpless people to whose welfare American missionary effort had long been directed, and that not all had been done in their behalf which might have been accomplished. As against these contentions Secretary Hughes relied upon the facts given above and upon the

consequences of them. Moreover, he had the satisfaction of knowing that American philanthropic organizations at work on Turkish soil ultimately expressed themselves with substantial unanimity in favour of the treaty.[88] On January 18, 1927 the Senate declined to advise and consent to the ratification of the treaty, although a majority of the senators present registered their approval of it.[89]

When the Harding Administration assumed office, in 1921, the "fundamental question" confronting the Government in its relations with Mexico was, as Secretary Hughes put it, "the safeguarding of American property rights in that country against confiscation."[90] The solution hung upon the decision of Mexico herself, and particularly upon whether she was determined, after her dozen years of turmoil and bloodshed, to trust her fate to a Government possessed of the power and disposition to fulfil international obligations, and with which the United States might wisely resume diplomatic relations, which had long been severed.[91] The Secretary of State entertained the hope that the Government of General Obregón might prove to be of such a character; and he noted with satisfaction the gradual establishment of more stable conditions, the revival of commerce, and the financial improvement apparent in Mexico. He was thus encouraged to test General Obregón by direct negotiations and to ascertain how far he was prepared to go. Accordingly, on the recommendation of the Secretary, President Harding, on May 2, 1923, appointed Colonel Charles Beecher Warren, who had served with distinction as ambassador to Japan, and Judge John Barton

Payne, formerly Secretary of the Interior, commissioners to confer with Mexican representatives at Mexico City.

The problems pressing for solution involved questions of law. The Mexican authorities were attempting, to quote Secretary Hughes, "to give retroactive application to Article 27 of the Mexican Constitution (of 1917), particularly to the provisions relating to subsoil rights, and such attempts threatened the properties of American citizens validly acquired."[92] There was also threatened expropriation of American properties under the so-called agrarian provisions of the same article, providing "for the division of large landed estates into small holdings and the taking of lands and water rights for the common use of the inhabitants of towns or villages, and for the compensation of owners in state bonds which were found to be without market value."[93] Furthermore, the Department of State found itself the recipient of a very large number of claims of American citizens against Mexico, arising from a variety of causes, and spread over a long period. There were also numerous pending claims of Mexican citizens against the United States. The Secretary of State felt that a resumption of diplomatic relations with Mexico and a formal recognition of the Obregón Government might be feasible if arrangement could be made serving adequately to safeguard validly acquired property rights of American citizens in Mexican territory, and providing also for the reasonable adjustment of claims before appropriate arbitral commissions.

The questions of law did not admit of easy solution. The Mexican Government was prepared to disclaim a policy giving retroactive effect to its Constitution with respect to acquired rights of American citizens, but it

denied that rights could be deemed to have been acquired in the subsoil where the owners of the surface had not performed some positive act indicating a desire to possess themselves of the subsoil. Thus, while the commissioners of both countries found no difficulty in agreeing to the principle that the Mexican Constitution should not be so applied as to impair existing rights of American landowners, there was an issue between them as to what constituted lawfully acquired rights in the subsoil. Nevertheless, the commissioners were fortunately able to reach an agreement whereby the Mexican Government would respect the rights of American surface owners or lessees to enjoy the subsoil privileges where some positive act had been performed prior to the promulgation of the Constitution of 1917, and would also grant preferential rights as against third persons who had no title to the land or to the subsoil, to such American citizens who might, prior to that time, have been entitled to perform some positive act, but had failed to do so; at the same time reserving all the rights of American citizens in respect to the subsoil under the surface of lands which they owned or in which they were interested under the laws and Constitution of Mexico prior to the promulgation of the new Constitution of 1917, "and under the principles of international law and equity." A positive act was moreover defined as one

> "which would manifest the intention of the owner of the surface or of the persons entitled to exercise his rights to the oil under the surface to make use of or obtain the oil under the surface: such as drilling, leasing, entering into any contract relative to the subsoil,

making investments of capital in lands for the purpose of obtaining the oil in the subsoil, carrying out works of exploitation and exploration of the subsoil and in cases where from the contract relative to the subsoil it appears that the grantors fixed and received a price higher than would have been paid for the surface of the land because it was purchased for the purpose of looking for oil and exploiting same if found; and, in general, performing or doing any other positive act, or manifesting an intention of a character similar to those heretofore described."[94]

It was understood that this arrangement would enable American citizens to adjudicate before a claims commission the question whether any actual application of Article XXVII of the Mexican Constitution to the soil subjacent to surface lands in which rights had been acquired by them prior to May 1, 1917 constituted an impairment of existing property rights. It was the scope of the announced Mexican policy—a policy in harmony with the views of the Mexican courts, to respect rights of American owners to the subsoil in a broad category of cases, and the willingness to arbitrate cases where the American claimant asserted the acquisition of a vested right which might be challenged by the Mexican sovereign—that constituted what Secretary Hughes deemed to be a reasonable basis of agreement. He regarded the proposed arrangement as fair to both countries. It may be added that the commissioners had no difficulty in reaching an understanding on the agrarian matters whereby all property expropriated by the Mexican Government was to be paid for at its just value.

Two claims conventions of wide scope were agreed upon. One, a Special Claims Convention, made provision for the adjudication before a commission of claims of American citizens arising from the revolutions and disturbed conditions which existed in Mexico from November 20, 1910 to May 31, 1920.[95] The other, a so-called General Claims Convention, made provision for the adjudication before a commission of claims within a broad category, of citizens of either country against the other, and presented to either Government for its interposition after the signing of the claims convention concluded between the two countries on July 4, 1868 (excepting American claims covered by the Special Claims Convention) which remained unsettled, as well as any other such claims as might be filed by either Government within a specified time.[96]

An amusing incident caused a slight delay in the signing of the conventions. Secretary Hughes, who had been addressing the American Bar Association at Montreal on September 4, telephoned from New York the following day to Mr. Phillips, the Acting Secretary of State, to ascertain whether everything was in shape for the signing of the General Claims Convention upon his return to Washington. After he had been assured that all was in readiness, it was discovered that provision had been made in the texts of both conventions that if the contracting parties could not within a certain interval after the exchange of ratifications agree upon a presiding commissioner, he should be designated by the president of the Permanent Court of Arbitration at The Hague. As that tribunal had not, by the treaties creating it, any officer known as "president," Secretary Hughes found it

necessary, as soon as he returned to Washington, to consult with the Mexican Government and make appropriate provision to cover the gap. That Government agreed, however, that the choice should be confided to the president of the permanent administrative council of the Permanent Court of Arbitration at The Hague, an office held *ex officio* by the Netherlands Minister for Foreign Affairs.[97] The texts of the conventions were modified accordingly, and Secretary Hughes, together with Messrs. Warren and Payne, in behalf of the United States, and Señor Téllez, in behalf of Mexico, signed the General Claims Convention on September 8, 1923. The Special Claims Convention was signed at Mexico City, two days later. General Obregón's Government was recognized, diplomatic relations with Mexico were restored, and the conventions were in due course ratified by both Governments.

From this series of events Secretary Hughes derived utmost satisfaction, for he felt that it laid the foundation for a more stable and amicable relationship between the United States and Mexico than had prevailed since the regime of Porfirio Diaz. Consequently he was disposed to give no encouragement to the revolutionary forces of General de la Huerta, which late in 1923 and in 1924 sought to challenge the peace and order of the country. The efforts of that aspirant to seize the Presidency meant, in the judgment of Secretary Hughes, "a subversion of all constitutional and orderly procedure." He declared that the revolution was not instinct with the aspirations of an oppressed people, but rather a matter of personal politics. Thus, when the established Mexican Government requested the United States to sell to

it a limited quantity of arms and munitions, he felt that the request could not be ignored and that it had to be granted or denied. He believed that a refusal to sell would give powerful encouragement to those who were attempting to seize the reins of government by force and would also throw the moral influence of the United States on the side of those who were challenging the peace and order of Mexico and would subject his country to a grave responsibility for resulting disturbances. The request was granted. The Secretary said, however, that "there was no question of intervention, no invasion of the sovereignty of Mexico, as we were acting at its instance and were exercising our undoubted right to sell arms to the existing government."[98]

Through the welcome that he accorded President-elect Calles upon his visit to Washington in October 1924, Secretary Hughes emphasized the reliance which he placed upon the new Mexican regime. The dinner which he gave in his honour at the Pan American Building, on the evening of October 31, reflected a spirit of goodwill which served to banish any thought that the occasion might mark the fulfilment of an obligation to a distinguished guest. Never did the Secretary of State doubt that in American co-operation with Obregón and Calles there was to be found a practical basis for a sound relationship between the two countries.

The treaty of friendship, commerce, and consular rights concluded with Germany on December 8, 1923 marked the beginnings of an effort by Secretary Hughes to rewrite the commercial treaties of his country.[99] Those which he found in force when he assumed office, in 1921,

lacked uniformity, failed to cover numerous matters on which agreement seemed imperative, and contained provisions which were so phrased as to leave room for divergent interpretations. Some were a century old; others had far exceeded the normal span of useful life which in the case of a treaty as in that of a man is oftentimes not apparent after threescore years and ten;[100] and one early text contained no provision for its own termination.[101] Arrangements concluded between the War of 1812 and the Civil War were not responsive to conditions after the World War of the twentieth century; and when they dragged a tottering life into the new era, they brought little comfort to the contracting parties responsible for their birth. Some of the existing treaties reflected policies to which the United States no longer avowed attachment. With certain states, including those born of the World War, it had no treaties, and with its former enemies there was need of fresh negotiations.

In such a situation Secretary Hughes began his work. He was resolved that the Government should know what it wanted and that its commercial and other policies should be fixed and well understood before negotiation. He believed that the text of a treaty of friendship, commerce, and consular rights, embodying what the Department of State deemed to be essential to the interests of the country, should be submitted impartially to the states of any continent which were disposed to negotiate. He felt that the substance of any draft should pay such heed to the underlying principles of international law as would serve to prolong the life of whatever was agreed upon, and yet also through detail of treatment and precision of statement offer definite guidance in a

variety of situations throughout the duration of the arrangement. He was insistent that, in the matter of drafting, effort should be made to improve on the phraseology of existing treaties by giving expression to common understandings in clear and simple fashion. Thus on a broad foundation he sought to rear a superstructure of which every detail would harmonize with a single purpose.

The Secretary of State was unconcerned as to the particular state with which negotiations should be initiated. Certain countries were clamouring for treaties with the United States, and others were indifferent; and it proved to be one of the latter to which, in June 1923, there was first submitted the text of the draft on which the Department pinned its faith. Germany, on the other hand, eager for a treaty with the United States, was prepared to accept the proposal substantially as it stood. Circumstances caused the German Government to facilitate the final negotiations at Washington, which resulted in the signature of the document on December 8. The treaty dealt with three general matters; first, the conditions of life of nationals of either contracting party within the territories of the other; secondly, commerce and navigation; and thirdly, consular representation. Articles covering the first of these were developed with great fullness, special effort being made to safeguard the rights of the resident alien throughout his varying experiences in a foreign land.[102] The articles on consular representation dealt minutely with the problems of the modern consul in respect to his rights and immunities, as well as his relationship to his countrymen and to the state of his sojourn. The problems of commerce and

navigation required careful handling, for in certain matters they involved the inauguration of fresh policies, and in others the maintenance of seasoned ones. The use of the so-called most-favoured-nation clause in relation to imports and exports was one of the former.

The executive and judicial departments of the Government had consistently interpreted the most-favoured-nation clause as conditional and contingent in its operation upon the offering and acceptance of compensation.[103] The presence of the clause in a treaty was thus not deemed to entitle a contracting party to enjoy the benefits of a concession granted by the United States to a third country unless such contracting party paid a price therefor equivalent to what had been paid by the third state. This conditional construction had in previous years begotten reciprocity treaties by which, in pursuance of the authority of Congress, special concessions were given for a valuable consideration; and because they were not gratuitous privileges, they were not regarded as within the scope of the most-favoured-nation clause as it appeared in other treaties.[104] The conditional interpretation bred difficulties and proved unworkable, for it necessitated constant bickerings with particular countries and was thus subversive of stability of arrangement.[105] Obviously it was not conducive to equality of treatment.

In 1922, however, Congress took a stand which served to change the treaty policy of the United States. By means of section 317 of the Tariff Act of that year, Congress undertook to assure equality of treatment to American commerce by authorizing the penalization of foreign states when they discriminated against the com-

merce of the United States through concessions more favourable to third countries.[106] The act made no express exception when a foreign discriminatory tariff was paid for through an equivalent concession by a third country. It was designed to aid in securing for the United States unconditional most-favoured-nation treatment by foreign states. Thereafter it became inconsistent for the United States to incorporate the most-favoured-nation clause in new treaties unless it was prepared to interpret the clause unconditionally and to assure thereby equality of treatment to the other contracting party irrespective of the terms of concessions which might be yielded to third states.[107] The Department of State, in heartiest sympathy with the position taken by Congress, perceived the wisdom of assuring unconditional most-favoured-nation treatment to the commerce of any power which might be willing to reciprocate. Secretary Hughes so advised President Harding, who, on February 27, 1923, responded in vigorous acquiescence. President Coolidge also concurred. Thus it was that in the draft submitted to Germany, as well as to other countries, the Secretary of State proposed unconditional most-favoured-nation treatment with respect to import and export duties and certain kindred matters.[108]

Another matter served, however, to delay final action by the Senate for more than a year. Following a traditional policy, the new treaty provided that reciprocal national treatment, rather than most-favoured-nation treatment, should be applied to cargo, tonnage, harbour, pilotage, quarantine, and other similar duties or charges imposed upon shipping. Vigorous objection at once appeared, on the ground that the United States would be

untrue to its interests if it bound itself in fresh treaties not to discriminate in favour of its own shipping. Such discrimination, it was said, would tend to encourage American shipping by giving employment to idle tonnage. Secretary Hughes felt that so long as the Senate remained in doubt and withheld its action on the treaty, he could not well submit drafts of similar content to other countries; nor could he properly continue negotiations with governments to which replicas of the German treaty had been submitted. The question at issue was, in his judgment, one of great concern to the United States, on the proper solution of which hung the fate of negotiations with maritime states generally.

Although the year 1925 was well under way, and Secretary Hughes had submitted elaborate memoranda in explanation of the treaty, the Senate had taken no action; and it was a matter of weeks before he was to retire. As he was satisfied that the treaty followed the only sound course to be pursued, he felt that he ought to endeavour to convince the Senate Committee on Foreign Relations that such was the case. It was arranged that he should appear before it on Monday, February 2. On Sunday afternoon, February 1, he read to a group of subordinates gathered at his house an exhaustive memorandum which he had prepared on every phase of the matter. On the following day he argued his cause before the committee. He emphasized two points, which were unanswerable. The first was that as American ships were the direct competitors of the ships of the other contracting party when they entered its ports, the United States could not safely leave such other contracting party free to discriminate against American vessels, and

that most-favoured-nation treatment would afford no safeguard against such discrimination. The second was that if the United States embarked upon a policy of discrimination in favour of its own shipping, retaliation would be the certain consequence, and that as the American area exposed to injury through discrimination was greater, because other maritime powers imported more from the United States than the United States imported from them, his own country would be the chief sufferer. He declared that "if the principal maritime countries retaliated against discriminatory duties in favor of American ships, our shipping would be at a disadvantage in the ratio of two and one-half to one," adding that the dutiable ocean-borne imports for the calendar year 1923 amounted to about 10,875,000 tons, while the exports to fourteen maritime nations most likely to retaliate amounted in that year to about 25,295,000 tons.[109] He said that if the influence of the United States were to be cast in favour of world peace, it should aim to diminish rather than increase the field of economic reprisals, and that the policy of the open door, of equal opportunity, of promoting agreements which would put an end to discrimination breeding ill-will and strife, he believed to be the policy which the United States should adopt. "With the equality of opportunity," he declared, "the United States can hold its own throughout the world."

While he strongly urged the adoption of the provisions providing for reciprocal treatment, he called attention to possible alternatives whereby the Senate might by appropriate reservations provide for the termination of the shipping clauses on reasonably short notice. By this

process he perceived that the principles responsible for these clauses would not be violated, and that the presence of a flexible arrangement for their termination might serve to encourage acceptance of the treaty and also to mollify any subsequent disposition to effect termination. The Senate committee was profoundly impressed by the soundness of his argument and by the fairness of his suggestions. On February 10 ratification was advised by the Senate, with reservations to the effect that the clauses and articles pertaining to shipping should remain in force twelve months from the date of exchange of ratifications, and if not then terminated on ninety days' previous notice, should remain in force until Congress should enact legislation inconsistent therewith, in which case they should automatically lapse at the end of sixty days from such enactment, and that on such lapse each contracting party should enjoy all rights which it would have possessed had the provisions not been embraced in the treaty.[110]

Shortly afterwards a counsellor of the German embassy called at the Department and made informal but rather critical comment on the nature and form of the Senate's action. He was informed, however, that the Department was gratified that the Senate had gone no further, and that his country was deemed fortunate to have opportunity to accept the treaty as it came from the Senate. The German Government appeared to share this view, for it accepted the treaty with the reservations. Ratifications were exchanged on October 14, 1925, on which date it was proclaimed by the President.

Secretary Hughes was pleased by the attitude of the Senate, for it respected the theory of the treaty to an ex-

tent that surpassed his hopes, and manifested approval of a sound basis of negotiation with other countries. When he retired from office, in March, he thus enjoyed the satisfaction of knowing that he had furnished his successors with a model appropriate for submission, with few variations, to any government.

CHAPTER XII

JAPAN AND THE IMMIGRATION ACT OF 1924

WHEN the existence of principle was challenged or constitutional rights of the individual impaired, Secretary Hughes was always alert for battle and could fight with a passion and vigour that contributed vastly to the influence of his reasoning. Yet the same man had no desire to flaunt the legal rights of his country in the face of any other when necessity did not so dictate, and where the wounding of the susceptibilities of a friendly state was the principal consequence to be anticipated from such action. Thus he was never prone to emphasize the dependence upon the United States of certain Central American countries, or to advert to any lack of independence which seemingly marked their status. His deference for the feelings of individuals and nations was an engaging quality in a man so situated that he might with faultless regard for the proprieties sear the hearts of foreign peoples. The circumstance that he was devoid of harshness of purpose and of any disposition to utter a strident note simplified the tasks of diplomacy and reduced areas of conflict. Secretary Hughes was alive to the relative importance of events. His instinctive sense of proportion sustained his personal inclinations. It saved him from antagonizing either a country or an envoy without just

cause. His discussions with the Japanese ambassador in 1924, as well as his communications to Congress, in relation to the immigration policy of the United States, revealed the thought and methods of the man.

In 1924 Congress entered upon the task of enacting a new immigration law designed to give practical effect to a policy of selective immigration, and contemplating the assignment of quotas to foreign areas. In the execution of this policy there was, however, the danger of giving so broad a definition to the term "immigrant" as to place within that category aliens who were really non-immigrants and who by virtue of various treaties of the United States were entitled to enter its domain. While Congress harboured no desire to violate those treaties, it was obviously important that the terms of a new law be clear on the point.[111] The bill introduced in the House on February 1, 1924 failed in the judgment of the Secretary of State to give proper heed to rights conferred by treaty upon the merchants of Japanese, British, and certain other nationalities to enter and remain within American territory for purposes of trade with their respective countries. On February 8, 1924 he wrote to the Chairman of the House Committee on Immigration and Naturalization reviewing at length the provisions of the bill and suggesting that the non-immigrant class be enlarged so as to include "an alien entitled to enter the United States under the provisions of a treaty."[112] Later he suggested the words "an alien entitled to enter the United States under the provisions of an existing treaty." [113] Congress saw fit, however, in the law of May 26, 1924, to describe the non-immigrant (in addition to minor categories) as "an alien entitled

to enter the United States solely to carry on trade under and in pursuance of the provisions of a present existing treaty of commerce and navigation."[114]

In another respect, however, the bill before Congress was a cause of great concern to Japan. It excluded as quota immigrants aliens who were ineligible to citizenship. The provision was aimed at the Japanese people; for existing legislation, which there was no disposition to supersede, regulated the matter of Chinese immigration and the so-called "barred-zone" provisions of the immigration laws prohibited immigration from certain other portions of Asia. The practical effect of the proposed bill was, to quote Secretary Hughes, "to single out Japanese immigrants for exclusion."[115] He regarded this procedure as the height of folly. He declared:

> "The Japanese are a sensitive people, and unquestionably would regard such a legislative enactment as fixing a stigma upon them. I regret to be compelled to say that I believe such legislative action would largely undo the work of the Washington Conference on Limitation of Armament, which so greatly improved our relations with Japan. The manifestation of American interest and generosity in providing relief to the sufferers from the recent earthquake disaster in Japan would not avail to diminish the resentment which would follow the enactment of such a measure, as this enactment would be regarded as an insult not to be palliated by any act of charity. It is useless to argue whether or not such a feeling would be justified; it is quite sufficient to say that it would exist. It has already been manifested in the discussions in Japan

with respect to the pendency of this measure, and no amount of argument can avail to remove it."[116]

He raised the question whether it was worth while thus to affront a friendly nation with which the United States had established most cordial relations, and he inquired what gain was to be anticipated from such action. Here lay the strength of his argument. He was able to show that the proposed measure would serve to deny entrance to only 246 Japanese immigrants a year.[117] He emphasized the fact that by an existing understanding with the Japanese Government known as the Gentlemen's Agreement of 1908, Japan herself undertook to prevent the emigration of labourers from her territory to the United States, except the parents, wives, and children of those already there resident, and that, incidental to that undertaking, she was regulating emigration to territory contiguous to that of the United States with the object of preventing the departure from Japan of persons who were likely to obtain surreptitious entry into American territory. He contended that with the deletion from the bill of the objectionable provision it would be possible to procure by agreement the active assistance of the Japanese Government in keeping out undesirable and unassimilable classes of Japanese immigrants, and that this would be the most feasible method of handling the matter. He further said:

"I am unable to perceive that the exclusion provision is necessary and I must strongly urge upon you the advisability, in the interest of our international relations of eliminating it. The Japanese Government

has already brought the matter to the attention of the Department of State and there is the deepest interest in the attitude of Congress with respect to this subject."[118]

The question before Congress was one of policy and not of law. Nobody doubted the right of the United States to restrict immigration as it might see fit. The precise issue was whether it should exercise that right in such a way as to brand Japanese labourers before all the world as unfit to enter American territory and, by such process rather than any other, close the door against the handful that might annually seek admission. The House Committee on Immigration and Naturalization, in its report of March 24, 1924, retained the provision excluding from quota immigrants aliens who were ineligible to citizenship. In the course of so doing that committee expressed itself as handicapped in reaching a conclusion through lack of information as to the exact provisions of the Gentlemen's Agreement, consisting, it was said, of diplomatic correspondence with Japan which had not been made public, and to which access could not be had by the committee without permission of Japan.[119] It was a fact that the content of the Gentlemen's Agreement was not disclosed in any single document, but was rather to be derived from a mass of confidential diplomatic correspondence in 1907 and 1908.

On April 10, 1924 Ambassador Hanihara addressed to Secretary Hughes a significant note, which appeared to meet this difficulty. He gave therein a full and accurate résumé of the scope of the agreement, embodying in the text of a single document the exact information of

which the House committee had professed ignorance. Moreover, he not only revealed what was the precise voluntary undertaking of his country in respect to the restriction of the emigration of labourers to the United States, but also announced the readiness of his Government to abide by its terms, as well as his own personal belief that that Government would not be unwilling to discuss proposals for the amendment or modification of the agreement should the United States be disposed to make them. Incidentally he declared that his Government did not intend to question the "sovereign right" of any country to regulate immigration to its own territories, and that it was not the desire of that Government to send their nationals to countries where they were not wanted. He said that Japan asked of the United States "simply that proper consideration ordinarily given by one nation to the self-respect of another, which after all forms the basis of amicable international intercourse throughout the civilized world." He concluded by saying: "I realize, as I believe you do, the grave consequences which the enactment of the measure retaining that particular provision would inevitably bring upon the otherwise happy and mutually advantageous relations between our two countries."[120]

Secretary Hughes regarded the note as of first importance.[121] He felt that it constituted a pronouncement that ought not be withheld from the Congress as it was about to make its decision as to the terms of a new immigration law. Nor did he view with alarm the statement with which the ambassador had concluded his note. The latter disclaimed any intention to convey a threat to the United States. On April 17, 1924 he declared:

"I simply tried to emphasize the most unfortunate and deplorable effect upon our traditional friendship which might result from the adoption of a particular clause in the proposed measure. . . . As the representative of my country, whose supreme duty is to maintain and if possible to draw still closer the bond of friendship so happily existing between our two peoples, I honestly believe such effects, as I have described, to be 'grave consequences.' In using these words, which I did quite ingenuously, I had no thought of being in any way disagreeable or discourteous, and still less of conveying 'a veiled threat.' On the contrary it was in a spirit of the most sincere respect, confidence, and candor that I used these words, which spirit I hope is manifest throughout my entire letter, for it was in that spirit that I wrote you. I never suspected that these words, used as I used them, would ever afford an occasion for such comment or interpretation as has been given them."[122]

Secretary Hughes was quite ready to accept the ambassador's assurance of good intent; and he informed the press correspondents that he did not think for a moment that Mr. Hanihara had the slightest intention of making any threat.

The Secretary of State had promptly transmitted copies of the Japanese note to the chairmen of the appropriate committees of both houses of Congress.[123] That body was, however, determined upon its action, much preferring to exercise its legal right and to fix by statute the treatment of alien immigrants ineligible to citizenship than to permit the matter to be dealt with by diplo-

macy. The immigration act approved May 26, 1924 contained the discrimination against such individuals. It served to bar generally the immigration of Japanese labourers and left no room for the continuance of an arrangement such as the Gentlemen's Agreement.

The Japanese Government lodged formal protest on May 31, 1924.[124] It then became the task of the Secretary of State to stand by the action of Congress. On June 16, 1924 he made response.[125] Japan had admitted the right of the United States to restrict immigration as it might see fit. Secretary Hughes had merely to point to the fact that while the President would have preferred to continue the Gentlemen's Agreement and to enter into negotiations for its modification, the Government did not feel that it was limited to that procedure, or that it had ever in the long course of previous negotiations "in any sense lost or impaired the full liberty of action which it would otherwise have in this matter." He declared that the action of Congress rendered it mandatory upon the President to release Japan from its undertakings under the Gentlemen's Agreement. Nevertheless, he did not fail to emphasize the appreciation on the part of his Government "of the voluntary cooperation" of Japan in carrying out that agreement; and he expressed the conviction that "the recognition of the right of each Government to legislate in control of immigration should not derogate in any degree from the mutual goodwill and cordial friendship" which had always characterized the relations of the two countries.

Secretary Hughes had lost in his struggle with Congress and had found himself obliged to defend the lawfulness of a course with which he had no sympathy. His

only reward was derived from his consciousness of the fact that he had done his utmost to prevent his countrymen from wounding unnecessarily the susceptibilities of a friendly nation. From Japan he coveted a harvest of goodwill towards the United States; but he despaired of ever reaping one so long as Congress persisted in exercising the right to sow what to his eyes was an obvious variety of dragon's teeth.

CHAPTER XIII

THE EUROPEAN TRIP OF 1924

IN a new capacity—as the president of the American Bar Association—Secretary Hughes, accompanied by Mrs. Hughes, boarded the S. S. *Berengaria* at New York on July 12, 1924, and sailed for England to attend the London meeting of the association. The ship's company included personages as stimulating and as amusing as any who had ever been admitted to the American bar. To his fellow lawyers and their families the president of the association revealed qualities with which some on board had not supposed that he was blessed. They had greatly respected his mental endowment and courage; but possibly on account of the nature of the tasks with which his life had been filled, as a detector of frauds, as a governor of a commonwealth, as a justice of the Supreme Court and as Secretary of State, many had accepted a belief too prevalent among those unacquainted with him, that the president of the association was a cold, detached, self-centred individual, living and thinking on a plane aloof from his fellow-citizens, and not particularly interested in their concerns. The cruise of the *Berengaria* bred contacts which dissipated that illusion. A reception on the evening of July 16 gave everyone an opportunity to see the man at close range; and they gained even a more intimate impression when he presided the following night at an entertainment in aid of the British

and American Seamen's Institution. They found him a friendly and genial person, quite unconscious that any change had overtaken him and the last to suppose that he was different from what he had always been. Before the vessel reached Southampton all were agreed that he had earned the degree of "Prince of Good Fellows, *ex Merito*," which, at a jovial dinner of the passengers who were alumni of the Harvard Law School, Dean Roscoe Pound had conferred upon him. In so doing he had thus described the recipient: "In diplomacy, like a planked shad, open and above board; in politics, like Cæsar's wife, all things to all men; in international affairs, like the Venus of Milo, the greatest figure in disarmament."[126]

Events at London need not be marshaled in their impressive order. Nor does the quality of the hospitality of the British hosts lend itself to description. The American Bar Association landed expectant, and returned grateful, profoundly affected by the hearts as well as the doors that had been opened to every guest. It was the task of the president of the association, who led his fellow lawyers to the shrine of the common law, to interpret the meaning of their visit and to express the mind of all. At Westminster Hall, on Monday morning, July 21, he undertook to do so. The scene has thus been described by Mr. Henry W. Taft, of the New York bar:

> "Westminster Hall was early filled to overflowing. It was the only occasion when it was possible to gather together all of the American lawyers and their families. Representatives of the junior and the senior bar of England and of the inferior courts first ranged

themselves on the wide steps and elevated platform leading to the Parliament Building itself. Presently there was a hush, as with great pomp and ceremony and in gorgeous array, came from the rear entrance the highest representatives of the English bench, preceded by officials bearing the gorgeous Mace and Purse. Thus supported, the Lord High Chancellor moved majestically forward, clad in robes of black and gold, his train borne with impressive grace by an attendant in resplendent costume. Then followed the Lord President of the Council, and three ex-Lord Chancellors. Law Lords and Lords of Appeal came in their turn; and then the Lord Chief Justice of England, in his scarlet judicial gown. The Master of the Rolls and his attendants followed. The impressive procession ended as its color was blended in the setting afforded by the distinguished company gathered around the reserved places on the historic platform."[127]

After formal presentations by the Attorney-General, Sir Patrick Hastings, by the President of the Law Society, Sir Robert William Dibdin, and by the president of the Canadian Bar Association, Sir James Aikins, the Lord Chancellor, Viscount Haldane, gave his ringing welcome. The president of the American Bar Association followed.

He had never addressed a more distinguished audience. Nor had that which in the hall of the House of Representatives heard his eulogy of the late President Harding, on February 27, 1924, shown deeper interest in the speaker, or keener sympathy with his thought. His theme was the debt of his country to the common law.

To its genius he was glad to impute an influence favourable to what in his judgment counted most. He said:

> "The fundamental conception which we especially cherish as our heritage is the right to law itself, not as the edict of arbitrary power, but as the law of a free people, springing from custom, responsive to their sense of justice, modified and enlarged by their free will to meet conscious needs, and sustained by authority which is itself subject to the law—the law of the land."[128]

Nobody in America held this conception in higher esteem than did the speaker, who rejoiced in the opportunity to bear his testimony on British soil. The concluding words of his address have often been quoted:

> "This meeting of those who enjoy a common tradition and cherish a common purpose cannot fail to heighten our sense of responsibility, as we find our strength renewed, our ardour quickened and our hearts deeply stirred as we sit together at the fireside in the old homestead."[129]

At Westminster Hall as at the dinner of the Pilgrims of Great Britain, on the same evening, and at the Lord Mayor's banquet at the Guildhall, on July 23, the president of the American Bar Association delighted his British auditors. In his speech at the Pilgrims' dinner he made a profound impression when he said:

> "There are certain things upon which you can count

in your relations with the United States. You can count upon us as a non-aggressive power devoted to the interests of peace. We wish to promote friendship with all nations and among all nations. . . . Our people have a passion for peace; you may count, as I have said, upon America's devotion to this cause, and upon our purpose to co-operate with you and with others, in every way that is congenial to our institutions in the interests of peace. You may count upon our co-operation in humanitarian enterprises, to promote public health, to check the spread of disease, to stop the abuse of narcotic drugs and other evils, with which the nations separately cannot cope. . . . You may count upon our interest and assistance in the necessary measures to assure the economic rehabilitation of Europe. It does not matter that this aid is not given by the Government."[130]

His hosts had abundant opportunity to gain a vivid impression of the man. They met him at the Inns of Court and at various receptions; they found him at Crewe House with Ambassador Kellogg; they saw him with Mrs. Hughes beside their King and Queen at Buckingham Palace; and they chatted with him at the final reception which, on the night of July 25, transformed Westminster Palace into a scene of indescribable splendour. The geniality, the frankness, the virility, the very stature of the man—elements contributing to the distinctiveness of his personality—were perceived and understood and commented on. The British bench and bar thus learned what manner of man he was. At one of the receptions an English hostess in conversation with an

American guest, after expressing her regard for the Secretary of State, took pains to add: "And we like Mrs. Hughes so much too"—a verdict echoed in every quarter.

With some five hundred of his American and Canadian brethren the president of the American Bar Association went to Paris on July 28, in response to a cordial invitation extended by the bar of that city. On July 29 the Palais de Justice rang with the stirring welcome extended by M. Manuel Fourcade, *Bâtonnier* of the Order of Advocates, in the course of which he quoted the pledge of aid to France which on July 14, 1918 Secretary Hughes had made. In his response the latter happily dwelt upon the similarity in fundamental purposes and conceptions prevailing in France and America. He said:

> "We are conscious of the extraordinary way in which by means so diverse in detail we reach results so much alike. In what is fundamental, in our conception of what one ought to enjoy, of what one owes to his neighbor, of what constitutes a social wrong, of the essentials of public justice, we are very much the same."[131]

As in Rio (in 1922) and as in London, he made glowing acknowledgment of the fellowship that bred a passion for justice among lawyers trained by diverse methods in countries seemingly unlike each other in their habits of thought. His tribute to French scholarship in the law and his reference to the "brotherly affection of those who are united by the strongest of spiritual ties" appealed to his French hearers.

As in England, so in France, the Secretary of State sought to banish consideration of his official status at home and to be accepted as the lawyer that he was. His hosts deferred to his preference, as did Bâtonnier Fourcade when he said:

> "I know full well that we must ignore the great public role, which the confidence of the Chief of your Government, interpreting that of the whole nation, has entrusted to you in the life of a great people and the promotion of its high destiny. I shall, therefore, say nothing of the Secretary of State, whose example, nevertheless, bears witness that France is not the only country where great servants of the nation are recruited at the Bar."[132]

Mr. Hughes fraternized with the French lawyers and visited their shrines. He shared with his brethren their sense of the sacredness of the Sainte Chapelle as a veritable temple of the bar, notwithstanding the discontinuance of the *Messe rouge*.[133] As he stood within its walls and beheld the narrow Gothic windows, with their blues and reds illumined by a July sun, he felt that heaven gave her own inspiration to him on whom the radiance there descended. At the Palais de Justice he placed a bronze wreath on the monument to the French lawyers who died in the World War, as the "*Hommage du Barreau Americain*." In his speeches he dwelt upon the law, and at the Hôtel de Ville he made particular reference to international law. He said:

> "Today we have an impetus to the development of the law in the international sphere. If we are to have

> the reign of justice throughout the world, the spirit of peaceful and common endeavor which alone can make this happy result possible must find expression in the development of international law with accepted standards of international rights and duties. We come to you in this international gathering with a special sense of our responsibility in this world movement."[134]

Nevertheless, all who met the president of the American Bar Association were conscious of the post which he held at Washington. A round of festivities, to which the whole-hearted hospitality of the French gave cordial and generous expression, brought him into contact with men of every profession. They thought of him not primarily as a lawyer, but rather as a Cabinet officer in charge of the foreign relations of his country; and doubtless President Doumergue shared the common view when he entertained Mrs. Hughes and her husband at luncheon on July 30. While French hosts and hostesses were not to be expected to gain an intimate impression of one who did not essay to speak their tongue, their eyes and ears served them well, and they perceived with clearness those distinctive qualities in their guest which had impressed their British neighbours. On both sides of the Channel the president of the American Bar Association was the same man, and on both he was understood and welcomed as a friend.

In the brief interval before he returned to the United States, the Secretary visited Belgium. While in Brussels the University of that city conferred upon him the degree of doctor *causa honoris*. The University of Louvain likewise so honoured him. He deplored the fact that cir-

cumstances beyond his control prevented him from accepting invitations to visit Holland, a fact that was equally regretted by Jonkheer Dr. Van Karnebeek, the Netherlands Minister for Foreign Affairs, who, as a delegate from his country to the Conference on Limitation of Armament held at Washington in 1921 and 1922, had become well acquainted with its presiding officer.

By arranging to return to the United States from a German port Secretary Hughes was enabled to spend a few days in Berlin, where he was greeted with manifestations of cordiality and friendliness, which betrayed no intimation that he was in the capital of a country recently at war with his own. On August 5 he sailed with Mrs. Hughes on the S.S. *President Harding* for New York.

CHAPTER XIV

LATIN AMERICA AND THE MONROE DOCTRINE

SECRETARY HUGHES never was obliged to invoke the Monroe Doctrine as the reason for an endeavour on the part of the United States to restrain the freedom of action of any foreign state of any continent. Nevertheless, he was profoundly interested in the principles on which that doctrine rested, and he made close study of the theory upon which his country might fairly rely in justification of intervention under it. He was familiar with those forms of conduct that the United States might deem it necessary to thwart, and he often took occasion to state publicly what they were.[135] He did so partly in order to serve notice on the world at large as to the scope of the American claim. Through his utterances foreign offices gained a clear understanding of the nature of conduct with which the United States might be expected to interfere. Thus, when he declared that what President Monroe had said with reference to Europe exclusively "must be deemed equally applicable to all non-American Powers," and that it was the fact rather than the method of acquiring additional territory on American soil which might give cause of umbrage, he left no room for confusion of thought.[136] Disclaiming any purpose to review historical applications of the Monroe Doctrine, or to attempt to harmonize the various redac-

tions of it, he stated, on August 30, 1923, that: "Properly understood, it is opposed (1) to any non-American action encroaching upon the political independence of American States under any guise and (2) to the acquisition in any manner of the control of additional territory in this hemisphere by any non-American power."[137]

The Secretary of State did not anticipate, however, that it might become necessary while he held office to oppose the conduct of any non-American state. His main purpose was a different one. He sought primarily, by means of his own exposition, to rid Latin America of anxiety lest the United States under cover of the Monroe Doctrine might use its strong arm to check unjustly the freedom of action of a weaker neighbour and so defy its independence. He desired to remove the fear possessed by countries for whose benefit rather than harm the United States might act.

Fear of the United States did exist, and it bred suspicions that were productive of jealousy and animosity. When the motives of the United States were assailed by its own citizens within its own territory, as they were, it was natural that enlightened opinion in Latin America should become wary, if not hostile.[138] Causes of distrust were various. The protracted lodgment of American armed forces on Central American soil doubtless caused anxiety in regions remote therefrom as to the purpose of their sovereign. Obviously such lodgment had no direct connexion with the Monroe Doctrine;[139] but it caused doubt whether the United States might invoke that doctrine as an excuse for restraints imposed as truly upon the conduct of American as of non-American states. Again, the countries of South America, particularly

those possessed of broad territories and strength sufficient to assure an unmolested existence, resented the assertion by their northern neighbour of the right to prevent the transfer under any conditions of any American territory to any non-American state. Here was a seeming restriction upon the normal rights of a sovereign state which the Latin-American statesman believed that his country was entitled to enjoy. Finally, there was chagrin that the United States persistently shunned arrangements confiding the application and enforcement of the Monroe Doctrine to a concert of American states pursuant to some inter-American treaty or understanding.

There were solid reasons why American forces were on Central American soil. Secretary Hughes was glad to make them known. The turmoil which had convulsed Haiti through successive revolutions from 1886 until 1915 culminated when in that year armed mobs murdered ex-President Zamor and President Sam, "the latter having been dragged by a mob from the French Legation, where he had taken refuge, and torn to pieces in the street. Following this the members of the cabinet took refuge in foreign legations or escaped from the country, so that there was no executive to assume direction of affairs."[140] In July 1915, American marines were landed, under whose protection the legislative chamber elected a President of Haiti, in the person of Sudre Dartiguenave. At this juncture, and partly with a view to enable the Haitian people to rid themselves of conditions which had been perversive of justice and productive of military despotism, the United States concluded its treaty of September 16, 1915. It thereby acquired the right and assumed the obligation to lend efficient aid in

the maintenance of a Government adequate for the protection of life, property, and individual liberty, and also to assist Haiti in the development of its natural resources.[141] This treaty made provision for the financial rehabilitation of Haiti through a general receiver and a financial adviser, both appointed by the President of Haiti, upon nomination by the President of the United States. It contemplated also, as essential to the end in view, the maintenance of tranquillity, the absence of which had seriously involved the foreign relations of the Republic in the years immediately preceding the treaty because of pressure brought to bear by certain European states in order to effect the adjustment of claims of their citizens.[142] In order to prevent revolution and bloodshed, which would have been disastrous to the purposes which the treaty reflected, American forces were on the island. But, as Secretary Hughes declared shortly before he retired from office: "In Haiti we are only waiting to see a reasonable promise of internal peace and stability to effect our withdrawal. And meanwhile we are doing our utmost to promote the interests of the people of Haiti without selfish considerations."[143]

In the case of Santo Domingo, the treaty of February 8, 1907, providing for the assistance of the United States in the collection and application of customs revenues, had not prevented a recurrence of revolutionary disturbances, or even deterred the Dominican Government from disregarding the treaty.[144] A military occupation by the United States was established in 1916, which was due, as Secretary Hughes declared in 1923, "to the demonstration, to use the phrase of President Roosevelt, of an impotence resulting in the lessening of the ties of

civilized society and thus requiring intervention."[145] The American occupation had continued from 1916 till 1924, when, as a consequence of the establishment of constitutional government resulting from American action, the forces of the United States were withdrawn. On January 20, 1925 Secretary Hughes was thus able to say: "Of course we could have remained in control had we desired, but instead of doing so we have been solicitous to aid in the establishment of an independent government so that we could withdraw and, such a government having been established through our efforts, we have withdrawn."[146]

In Nicaragua a guard of one hundred marines had been maintained in connexion with the American legation at Managua from the year 1912. In November 1923 the United States had announced a plan to withdraw the guard upon the inauguration of the new Nicaraguan Administration, to be elected in October 1924, and to take office in January 1925.[147] "But," as Secretary Hughes declared on January 20, 1925, "the newly elected President has besought us in the interest of peace and order to permit it to remain until a constabulary or local police can be provided, and we have agreed to do so, but with the distinct understanding that this local police must be established and that we shall withdraw entirely before next September."[148] He was able to add, after adverting to the situation in Haiti and in Nicaragua: "Nowhere else in Latin America have we any forces, and everywhere we are seeking to encourage constitutional government, to use our friendly offices in the interest of peace, and to assure our neighbors of our respect for them as independent States."[149]

Secretary Hughes was not, however, content merely to invoke the legal right by virtue of which the United States had found it necessary to utilize its military forces. The very fact that it had exercised such a right, even in the best of faith, impelled him to endeavour to make clear the real purposes of his country. He did not wish to see that country regarded as a mere despot, the beneficence of whose action hung upon the disposition or caprice of a particular administration. He was satisfied that the United States itself, whoever might speak for it in its foreign relations, entertained no sinister design with respect to any foreign country, and least of all towards the weakest of its neighbours of the same continent. Therefore he took pains to bear his testimony in the frankest way. Thus, he declared in his address before the American Bar Association on August 30, 1923:

> "Anyone who supposes that this helpful contact and friendly relation are either sought or used by the Government of the United States for purposes of aggression or with the intention of dominating the affairs of these countries or their governments has slight knowledge of the aims and actual endeavors of the Department of State. We are not seeking to extend this relation but to limit it; we are aiming not to exploit but to aid; not to subvert, but to help in laying the foundations for sound, stable and independent government. Our interest does not lie in controlling foreign peoples; that would be a policy of mischief and disaster. Our interest is in having prosperous, peaceful, and law-abiding neighbors with whom we can co-operate to mutual advantage."[150]

The Secretary of State announced as one of his main propositions: "The policy of the Monroe Doctrine does not infringe upon the independence and sovereignty of other American States." "Misconception upon this point," he added, "is the only disturbing factor in our relations with Latin American States."[151] How could that policy be so described when it opposed even the voluntary transfer of territory by a Latin American state to a non-American grantee? Was not interference with the right to cede territory an impairment of political independence? Secretary Hughes perceived the significance of such queries and did not evade them, for they appeared to challenge the accuracy or sincerity of his assertion. Was there an answer which was sound in law and also calculated to breed respect for the good faith of the United States? The Secretary of State thought that there was. He made this response. He declared that the United States enjoyed no less than any other country the "recognized right to object to acts done by other powers which threaten its own safety. The United States has all the rights of sovereignty as well as any other power; we have lost none of our essential rights because we are strong, and other American States have gained none either because of increasing strength or relative weakness." He asserted that American sentiment still regarded the acquisition of additional control of American territory by non-American powers as a menace to the safety of the nation, and that in asserting and maintaining that view in the interest of peace and security there was no practical interference with the independence of the southern republics. "We simply assert," he declared, "a right which corresponds with rights

which they themselves enjoy, and hence even in theory this assertion does not infringe upon their sovereignty." In a word, his view was that the United States was justified in opposing a transfer of American territory to a non-American state because it felt, and had reason to feel, that such action jeopardized its own safety. In reality this did not mean that political independence was not interfered with by opposition to a transfer, but rather that there might be a solid excuse for such interference which any state under similar circumstances might invoke.

The matter was, however, of theoretical rather than of practical importance, because non-American states were far from disposed to seek transfers of American territory from American republics. Nevertheless, the Secretary of State was extremely anxious that the assertion which he had bluntly made should not inspire the inference that the United States sought to establish protectorates over its southern neighbours. He was emphatic in disclaiming such a design on the part of the United States. He said:

> "I utterly disclaim, as unwarranted, the observations which occasionally have been made implying a claim on our part to superintend the affairs of our sister republics, to assert an overlordship, to consider the spread of our authority beyond our own domain as the aim of our policy, and to make our power the test of right in this hemisphere. I oppose all such misconceived and unsound assertions or intimations. They do not express our national purpose; they belie our sincere friendship; they are false to the fundamental

> principles of our institutions and of our foreign policy which has sought to reflect, with rare exceptions, the ideals of liberty; they menace us by stimulating a distrust which has no real foundation. They find no sanction whatever in the Monroe Doctrine. There is room in this hemisphere, without danger of collision, for the complete recognition of that doctrine and the independent sovereignty of the Latin American Republics."[152]

These words were reassuring to Latin American statesmen who had entertained any real doubt as to the design or inclination of the United States, for they were the utterance of an honest man who was able to speak as authoritatively in behalf of his country as could any American citizen.

As to the seeming aloofness of the United States in reserving to itself its definition, interpretation, and application of the Monroe Doctrine, there was need of explanation; and the Secretary of State made it. He admitted frankly that his country had "not been disposed to enter into engagements which would have the effect of submitting to any other power or to any concert of powers the determination either of the occasions upon which the principles of the Monroe Doctrine shall be invoked or of the measures that shall be taken in giving it effect." This policy, he declared, implied neither suspicion nor estrangement. It simply meant, he said, that the United States was asserting a separate right of self-defense, and that in the exercise of that right it must have an unhampered discretion.[153] He quoted Secretary Root's words that "since the Monroe Doctrine is a dec-

laration based upon the nation's right of self-protection, it can not be transmuted into a joint or common declaration by American States or any number of them."[154] He emphasized the fact that the United States, even in its own declarations, had never bound itself to any particular course of conduct in case of action by other powers contrary to its announced principles. Yet he took pains to add that this carefully preserved freedom did not detract from the tenacity with which the doctrine was held, but, like the doctrine itself, had been maintained as "essential to our independence and security." Secretary Hughes accordingly deemed it expedient to follow the traditional course when he issued instructions to the delegates from the United States to the Fifth International Conference of American States, which assembled at Santiago, Chile, in the spring of 1923. That conference took no action with respect to the Monroe Doctrine.[155]

Nevertheless, the Secretary of State made it clear that the United States always welcomed declarations by other American states announcing a determination to apply principles similar to those reflected by the Monroe Doctrine as a definite part of their foreign policy.[156] He declared, moreover, that the Monroe Doctrine as interpreted and applied by the United States offered no impediment to Pan American co-operation, but rather afforded the necessary foundation therefor in the independence and security of American states.[157] He was able to point to gratifying evidence of that co-operation, especially to the achievements of the Fifth International Conference of American States, of 1923. Those he deemed to be no less promising in their results by reason of the circumstance that they lay primarily in the

fields of economics and law and education rather than in the realm of politics. One of those results was, he declared, "in the provision for special conferences on the standardization of specifications of raw materials, tools, machinery, supplies, and other merchandise in order to promote economy in production and distribution; on public health; on eugenics and homoculture; on the codification of international law; on education; on electrical communications; on the uniformity of communications statistics; on automobile highways; and last but not least, on the dissemination of news."[158] That conference had, moreover, been productive of a convention to avoid or prevent conflicts between the American states. It made provision for a contingency when a controversy arising between two or more of the contracting parties was found to be impossible to adjust by diplomacy or to submit to arbitration. In such event it was to be submitted for investigation and report to a commission of inquiry. The most impressive undertaking of the contracting parties was that whereby they agreed not to begin mobilization or concentration of troops on the frontier of an opposing state, or to engage in any hostile acts or preparation for hostilities from the time steps were taken to convene the commission until the commission rendered its report, or until the expiration of six months after the parties to a controversy were in possession of such report.[159] Secretary Hughes did not feel that his country ought to oppose such an arrangement. He declared that the American republics had "sought in an entirely practicable way by a general agreement to assure the maintenance of peace in this hemisphere." He added that "to this important treaty

the Senate of the United States gave prompt approval."[160] As a further token of inter-American co-operation he was able to call attention to the convention for the establishment of international commissions of inquiry concluded between the United States and the Central American republics on February 7, 1923, at the Central American Conference in Washington.[161]

Secretary Hughes was satisfied that his country as an active participant in various phases of Pan American co-operation, and as a whole-hearted supporter of the Pan American Union, which was "based on the principle of the equality of the American States," was in a position to claim before the world that its devotion to the Monroe Doctrine neither alienated it from its Latin American neighbours, nor lessened its interest in any problems common to the Western hemisphere. Moreover, he did his utmost to justify the maintenance of that claim. He was habitually loath to accentuate differences in strength and prestige which in fact enabled the United States to exercise an influence disproportional to that supposedly belonging to a single member of the family of American states. His mind did not dwell upon methods by means of which his country might successfully thwart the political designs of its sister republics. He sought rather to find a common ground on which the United States might co-operate with them. He spoke from his heart when he said:

"It is the policy of this government to make available its friendly assistance to promote stability in those of our sister republics which are especially afflicted with disturbed conditions involving their own peace and that

of their neighbors. It is the desire of the United States to render this assistance by methods that are welcomed and which are consistent with the general policies above stated."[162]

That the Monroe Doctrine was not a policy of aggression, but one of self-defense, and that the achievements of a century had not altered its scope or changed its basis were, perhaps, the main facts upon which Secretary Hughes relied.[163] He could fairly say that "it is a part of our policy to respect the territorial integrity of the Latin-American Republics. We have no policy of aggression; we do not support aggression by others; we are opposed to aggression by any one of the Latin-American Republics upon any other."[164]

It is impossible to estimate the extent to which his country profited from these comments by its Secretary of State. He grappled with applications of the Monroe Doctrine which to Latin American statesmen were fraught with danger to their own institutions; and he sought to interpret those applications in such a way as to render them inoffensive to republics that were sensitive to any impairment of their rights of political independence. He never referred to the power of the United States as the basis of its rights. If he spoke with conviction when he explained what that basis was, he manifested the same conviction when he disclaimed any design of his country to take any steps subversive of justice. If he professed faith in the Monroe Doctrine, it was because he regarded it as "inimical to no just interest and deemed to be vitally related to our own safety and to the peaceful progress of the peoples of this hemisphere."[165]

In his comments on the Monroe Doctrine Secretary Hughes took pains to show that as a particular declaration it in no way exhausted American rights or policies, and that a situation existed in the region of the Caribbean where this was true and where the special interests of the United States might impel it to check purely domestic disturbances because of their relation to its own safety, notwithstanding the fact that a non-American state might not be a disturbing factor.[166] He declared:

> "We have certain special policies of the highest importance to the United States. We have established a waterway between the Atlantic and Pacific oceans—the Panama Canal. Apart from obvious commercial considerations, the adequate protection of this canal —its complete immunity from any adverse control— is essential to our peace and security. We intend in all circumstances to safeguard the Panama Canal. We could not afford to take any different position with respect to any other waterway that may be built between the Atlantic and the Pacific oceans. Disturbances in the Caribbean region are therefore of special interest to us not for the purpose of seeking control over others but of being assured that our own safety is free from menace."[167]

In thus enunciating what may be called the Panama Canal doctrine Secretary Hughes made clear the theory on which his country might be expected to act with respect to a particular area when no violation of the Monroe Doctrine was anticipated or threatened.

CHAPTER XV

THE PATHWAY OF PEACE

INTERNATIONAL controversies of every character confronted Secretary Hughes throughout his sojourn at the Department of State. Some of those to which his country was a party have been observed. There were numerous others of both political and non-political aspect, and certain of them attained large proportions.

The Department of State was fairly swamped with pecuniary claims against foreign states when the Harding Administration assumed office; and methods of adjustment had to be devised and agreed upon. There were claims arising from the World War against states ranged on either side of the conflict; there were others against Mexico and Latin America, and still others against countries of the Near and Far East. Nor was the United States free from demands for reparation on account of its own acts; and these demands, considerable in number, were good, bad, and indifferent in character. As the soundness of most claims was challenged on either side and adjustment oftentimes unattainable either through local courts or by diplomacy, recourse to arbitration became the only practicable alternative. A crop of claims conventions was the natural consequence. Neutral experts eligible for service as umpires had to be hunted up and scrutinized and agreed upon. Competent agents and counsel and commissioners to be appointed by the United States required careful selection. With such an opening, politicians pleaded for their henchmen. Mer-

chants and "oil experts" were recommended for service as judges on or advocates before tribunals to be concerned with questions of international law. One applicant, amply endorsed, who had the candour to disclaim any knowledge of the law, suggested that if the American diplomatic service would furnish him with legal guidance, his own good sense would enable him to fulfil successfully the function of an arbitrator. "Throw them out," was the terse instruction of Secretary Hughes when informed of the cohorts of applicants that were pestering the State Department; and the instruction was obeyed.

The Secretary of State found himself more than an unofficial observer of controversies of grave magnitude which disturbed the amicable relations of certain other states. Latin American boundary disputes were of such a kind. At times he endeavoured to point the way to a just solution. Through his influence Colombia and Panama were encouraged not only to enter into diplomatic relations with each other in 1924, but also to sign a boundary convention whereby Panama accepted the line along its Colombian frontier as set forth in the treaty between the United States and Colombia of April 6, 1914.[168] He felt satisfaction when Costa Rica and Panama, in 1921, refrained from the war that seemed imminent between them in view of the demands of the United States that peace be maintained on the basis of the arbitral award whereby, in 1914, Chief Justice White had undertaken to adjust their boundary dispute.[169] He believed that differences of such a kind were susceptible of adjustment by judicial process when diplomacy failed. On the last day of his official service, March 4,

1925, Brazil, Colombia, and Peru accepted his informal suggestions for the settlement of their triangular boundary controversies.[170]

An inevitable series of events served to put the Secretary of State in the shoes of an arbitrator with respect to a territorial issue of utmost importance. The difference between Chile and Peru concerning Tacna-Arica revealed the failure of diplomacy over a forty-year period to adjust a controversy begotten of their Treaty of Ancón, of October 20, 1883.[171] The reason for the controversy was the fact that from the treaty Chile had derived a legal point to which she clung tenaciously despite the adverse contentions of Peru. That point was that Article III of that treaty entitled Chile to demand that a plebiscite determine whether the territory of the provinces of Tacna and Arica should remain definitely under the dominion and sovereignty of Chile or continue to constitute a part of Peru. Secretary Hughes, without venturing to suggest how the issue should be adjusted, was, nevertheless, earnestly hopeful that the parties might agree upon a mode of settlement. He was, moreover, ready to invite them to confer at Washington for such a purpose when assured that both would accept an invitation to do so. He became so assured, and an invitation was accordingly extended and accepted. Delegates from the two countries assembled at Washington in the spring of 1922, not, however, with a view to negotiating a fresh and comprehensive settlement of the entire matter, but rather to consider the adjustment of the issue with respect to the unfulfilled provisions of the Treaty of Ancón. Chile desired to refer to arbitration merely the conditions under which a plebiscite should

be had. Peru, on the other hand, insisted that the question for arbitration should be whether under the existing circumstances a plebiscite should be held. Peru won its point, and an agreement, concluded on July 20, 1922, so defined the issue.[172]

Secretary Hughes did not ask that the controversy be referred to The Hague; but he did ask that it be not submitted to the President of the United States. As a matter of fact, he would have preferred a commission of jurists. When, however, both parties declared that there would be no arbitration unless the President were the arbitrator, the Secretary found himself face to face with the alternative of balking the only possible basis of agreement, or of yielding to the specific request. Both parties, moreover, made it clear to officers of the Department of State that they expected the controversy to be settled judicially; and in accordance with international practice it was doubtless expected that the President would be assisted by the Secretary of State. Neither party would agree to arbitrate before any other. Secretary Hughes felt obliged to yield. The President was accordingly designated as arbitrator.

The Secretary of State dreaded the performance of the task that circumstances had thus thrust upon him. He said to a subordinate: "Nobody will like the award whatever it is; but anyway, it has got to be right." By the terms of the agreement the arbitrator was obliged to determine as a judicial question, as has been noted, whether, in consequence of the Treaty of Ancón, Chile and Peru still remained obligated to hold a plebiscite; and if the decision were in the affirmative, he was to decide the conditions of a plebiscite. On March 4, 1925 the

arbitrator announced his opinion and award, declaring that the provisions of certain paragraphs of the Treaty of Ancón were still in effect; "that the plebiscite should be held; and that the interests of both parties can be properly safeguarded by establishing suitable conditions therefor."[173] Such conditions the arbitrator undertook to lay down.

What subsequently served to frustrate the effort to hold a plebiscite was the fact that as Chile insisted on the right derived from the Treaty of Ancón to continue administration over the disputed area, neither the arbitrator nor the plebiscitary commission acting under him could establish a neutral zone or assert actual control in the area. Nevertheless, the arbitration was the only means of paving the way for ultimate diplomatic settlement, for experience of many years had demonstrated that no such settlement was possible while the questions as to the holding of a plebiscite remained open. It was necessary that this situation should be developed before there was any chance of negotiation outside of the provisions of the Treaty of Ancón.

Secretary Hughes was far from disapproving of general arrangements that might oblige the United States to settle by judicial process, as by arbitration, future differences of grave character, if other means of amicable adjustment were to prove abortive. He entertained no illusion, however, as to the attitude of the Senate. Because he was thoroughly aware of the persistent opposition of that body to the proposals of various Presidents advocating such arrangements, he respected the fact and did not attempt to accomplish what was impossible. Thus he neither sought to modify the opinion

of the Senate, nor encouraged the President to submit to that body any treaty which he had reason to believe would surely be thwarted.

The Secretary had convictions of his own, however, as to what should and what should not be submitted to an international tribunal. On May 18, 1922 he declared that while he had always advocated the judicial settlement of all international disputes which could be regarded as having a "justiciable character," and had favoured development of institutions for that purpose, it should be borne in mind that the most serious international controversies were not of a "legalistic nature" and must be settled, if they were to be settled at all, by negotiations and agreements. He said: "They lie outside the application of defined juristic principles and the more unstable we find world conditions to be, the greater the necessity of the efficient operations of diplomacy and of the adequate organization and support of the Peace Department of our Government."[174]

He was convinced that the United States ought not to submit to any international forum a domestic matter involving no question under its treaties or under international law. Moreover, he was satisfied that his country would never agree that any foreign entity of any character should pass upon the question whether a particular matter was of a domestic character. He was emphatic in his public utterances. On October 4, 1924, he said:

> "We propose to perform our obligations under our treaties and under international law. We have had a gratifying leadership in promoting peaceful settlements. Our policy has established an abiding peace

in this hemisphere. But the people of this country would never tolerate the submission to any Power or group of Powers of the determination of any of our domestic questions. If we are to cooperate, we must be permitted to cooperate without the sacrifice of our right to determine our own policies."[175]

A few days later he declared:

"Recently the question has been discussed of the appropriateness of investing a group of Powers with the authority to deal with domestic questions, not with questions arising under treaties by which parties have limited their rights, but with questions within the competency of a nation as to which it has not limited its rights. The sentiment of this country, I repeat, would not tolerate the submission of such questions which pertain to our own policy to the determination of any group of Powers. It would not tolerate the making of an agreement for such submission. We should not be willing to enter any organization through which a group of Powers would be in a position to intervene to attempt to determine our policies for us. We have favored, and do favor, the submission to arbitral and judicial tribunals of international questions, that is, the decision of questions arising under our treaties and under international law, because these questions are to be resolved by principles which are commonly accepted. But when we are outside the domain of our treaties and questions of international law, and are dealing with our own domestic questions, we reserve our freedom to determine our own policies."[176]

Again, there were questions of both international character and legal aspect which Secretary Hughes did not believe that his country should agree to submit to an international court. He anticipated and gave careful thought to some which, if they became acute, he was determined not to refer to the decision of an arbitral tribunal. They did not, however, become pressing; he was never obliged to decline to agree to arbitrate any particular controversy which any other state could fairly claim that the United States should, by virtue of any treaty or for any other reason, consent to adjust by judicial process. Nevertheless, the Secretary of State saw clearly that the United States might find itself a party to an international controversy which, howsoever described or classified, was not one which in his judgment could be safely entrusted to the final decision of any alien body or umpire. He was aware of the contingency. He did not intimate affirmatively what procedure should be followed if it arose. He was inclined to retain for his country opportunity to enjoy freedom of action at a time when it might desire to be free as to choice of methods of adjustment. Here the intensely practical side of the man revealed itself. His caution was due to his knowledge of facts before him and of contentions that might be raised, and to his anticipation of what both might breed. Nevertheless, he was far from encouraging the United States to rely upon its own strong arm for the prosecution of its rights.

On the other hand, the Secretary of State regarded with approval some arrangements designed to postpone if not remove the likelihood of war. The treaties emanating from the Central American Peace Conference, of

February 7, 1923, and from the Fifth Pan American Conference, in May 1923, contemplating recourse to commissions of inquiry are illustrative.[177] Secretary Hughes, as has been observed, looked hopefully upon the recommendations of such bodies as deterrents of actual conflict. Again, he understood the potency of joint commissions, and encouraged their use in a significant address entitled "The Pathway of Peace," delivered before the Canadian Bar Association at Montreal on September 4th, 1923. He said:

> "A joint commission is a familiar agency which is distinct from that of arbitration for the reason that the states concerned in its creation have each an equal representation. In relation to domestic questions which have an international bearing, it would be quite possible to make more frequent use of this method, not to decide but to inform, not to arbitrate but to investigate, to find the facts and to report to the governments of the states represented the effect of measures and where injury would lie. . . . I may take the liberty of stating as my personal view that we should do much to foster our friendly relations and to remove sources of misunderstanding and possible irritation, if we were to have a permanent body of our most distinguished citizens acting as a commission, with equal representation of both the United States and Canada, to which automatically there would be referred, for examination and report as to the facts, questions arising as to the bearing of action by either government upon the interests of the other, to the end that each reasonably protecting its own interests

would be so advised that it would avoid action inflicting unnecessary injury upon its neighbor."[178]

Here was a suggestion calculated to enable the contracting parties to prevent the coming into being of issues arising from the exercise of their acknowledged rights by a process that did not impair freedom from external control.

Nor did Secretary Hughes fail to give close thought to various proposals designed to lessen the recurrence of war. In his Montreal address he acknowledged his consciousness of the fact that the pathway of peace was "the longest and most beset with obstacles which the human race has to tread." He pointed to the "delusive simplicity and adequacy" of the proposal for the outlawry of war; for while he agreed that those who instigate war should be punished as criminals, he declared that few would denounce war on grounds of self-defense, and that there was rarely a case where it was possible to ascertain which party was the aggressor rather than the defender. He declared that there was no way to peace except as the will of peoples might open it. He said: "The way to peace is through agreement, not through force. The question then is not of any ambitious general scheme to prevent war, but simply of the constant effort, which is the highest task of statesmanship in relation to every possible cause of strife, to diminish among peoples the disposition to resort to force and to find a just and reasonable basis for accord."[179] He emphasized the need of securing the foundations of international law by reasserting its postulates through codification in order to heighten respect for those postulates by fresh discussion

and restatement. At the same time he pointed to the deliberation and patience that the task of codification entailed. He declared that there was only one way in which to make peace secure—"the difficult but necessary effort to translate particular controversies into voluntary reasonable agreements." "All things are possible," he said, "if nations are willing to be just to each other. . . . I recur to the main point, that the only real progress to abiding peace is found in the friendly disposition of peoples and that facilities for maintaining peace are useful only to the extent that this friendly disposition exists and finds expression." He added:

> "War is not only possible, but probable, where mistrust and hatred and desire for revenge are the dominant motives. Our first duty is at home with our own opinion, by education and unceasing effort to bring to naught the mischievous exhortations of chauvinists; our next is to aid in every practicable way in promoting a better feeling among other peoples, the healing of wounds, and the just settlement of differences."[180]

Secretary Hughes thus went back to first principles, which he proceeded to apply in his own contacts with foreign peoples. The Japanese saw him do so, as did also Latin America and Europe. He sought to cultivate for the United States the goodwill of other countries; and the immensity of the task, which unceasingly taxed his resourcefulness, diverted him from the effort to devise machinery for the prevention of wars. He put heart and soul into recommendations designed to remove antagonisms between neighbouring republics. If he did not

produce an ambitious plan for world peace, he was responsible for a plan that stopped the competitive construction of battleships, and sent others to the scrap-heap; if he did not indicate a method by which all war-producing disputes might be amicably adjusted, he at least had an active part in removing from the horizon the controversy respecting Shantung, which, as long as it continued to fester, threatened to wreck the achievements of the Washington Conference of 1921–1922. Through his successful effort to bring about the termination of the Anglo-Japanese alliance he dissipated the fear of some of his countrymen lest the United States be confronted with an Anglo-Japanese foe. If he manifested caution in respect to the appropriate limits of arbitration, he himself endeavoured through an arbitral award to adjust a territorial dispute of grave concern to South America. Secretary Hughes did not chart out the pathway of peace; but he himself trod it, and strove to keep his country and its neighbours within it.

CHAPTER XVI

EUROPE AND THE LEAGUE OF NATIONS

THE man who in March 1921 became Secretary of State had in May 1917 stated what he deemed to be the essential features of an international organization to promote the interest of peace.[181] He then pointed to what he believed the interests of the United States would demand if it were to be a participating state; and he took pains to emphasize what he felt it might find difficulty in accepting. Thus while he looked hopefully towards American participation in international law-making conferences, and in efforts to establish a permanent court of international justice, and in instrumentalities to utilize international conciliation for the adjustment of questions of a non-justiciable character, he was equally definite in his warning as to the dangers of a treaty contemplating coercive measures by the contracting parties. He said:

> "Objections have been raised both upon constitutional grounds and upon reasons of policy, with respect to our joining in a concert looking to the use of force in any contingency. As to the former, it may be said that Congress alone has the power to declare war, and that any agreement made by the United States to co-operate in coercive measures amounting to war would necessarily be subject to the exercise by Congress of its unquestioned authority."

Again, he declared that he believed it idle to expect that, in any conceivable arrangement at the conclusion of the war, the United States would abandon the Monroe Doctrine. He asked: "Is it too much to expect that our historic policy, in its essential features, should be accepted by the nations?"

When the first draft of the Covenant of the League of Nations was made public in the United States, in the spring of 1919, Mr. Hughes made a careful analysis of the document in an address before the Union League Club of New York City, in which he pointed out what he regarded as the most serious defects, and in which he suggested amendments that he regarded as necessary.[182] The amendments of the Covenant as it finally appeared in the Treaty of Versailles, which was signed on June 28, 1919, did not meet his objections.[183] In July 1919 he examined the question whether the United States might, nevertheless, prudently enter the League with reservations of a reasonable character. He concluded that it might, and he stated publicly what in his judgment those reservations should be.[184] They concerned the right of withdrawal from the League, the withholding of domestic questions from its consideration, a clearer statement as to the position of the United States on the Monroe Doctrine, and the relationship of the United States to Article X of the Covenant. In his address before the Union League Club he had adverted to the danger of pledging the nation to exercise a power calling for congressional action unless there was every reason to believe that Congress would respect the pledge; and he had called attention to the fact that Congress might not recognize the authority of the treaty power to bind it to

act under the Covenant, as by resorting to war, if it believed that such action was contrary to the interests of the country. In his proposals of July, he said:

> "I agree with Mr. Root that it would be desirable to eliminate Article X with its guaranty 'to preserve against external aggression the territorial integrity' of all members of the League. . . . I still think that Article X is a trouble-breeder and not a peace-maker."[185]

Accordingly, he suggested a reservation designed, in so far as the United States was concerned, to free that article from its objectionable qualities.[186]

On October 14, 1920 Mr. Hughes, with thirty other Republicans, signed a statement in support of the candidacy of Senator Harding for the Presidency, which contained the following declaration:

> "We have reached the conclusion that the true course to bring America into an effective league to preserve peace is not by insisting with Mr. Cox upon the acceptance of such a provision as Article X, thus prolonging the unfortunate situation created by Mr. Wilson's insistence upon that article, but by frankly calling upon the other nations to agree to changes in the proposed agreement which will obviate this vital objection and other objections less the subject of dispute.
>
> "For this course we can look only to the Republican Party and its candidate; the Democratic Party and Mr. Cox are bound not to follow it. The Republican Party is bound by every consideration of good faith to pursue such a course until the declared object is attained.

"The conditions of Europe make it essential that the stabilizing effect of the treaty already made between the European Powers shall not be lost by them and that the necessary changes be made by changing the terms of that treaty rather than by beginning entirely anew."

The foregoing statement rested upon an explicit assurance given by Senator Harding in a speech that he had made on August 28, 1920.[187] Moreover, it embodied the sentiments of those who signed the statement. As he assumed office, Secretary Hughes underwent no change of heart. He felt that the Treaty of Versailles, including the Covenant, should receive the assent of the Senate, provided appropriate reservations were made. As has been earlier noted, it was not until he became convinced, after conference with senators who were friendly to the Administration and also not hostile to the treaty, that the Senate could not be expected to approve of the Treaty of Versailles even under reservation that he undertook to negotiate a treaty with Germany restoring friendly relations with that country.[188]

While the statement of the thirty-one Republicans was an expression of conviction and purpose on the part of the signers, they realized that the result which they desired could be effected only through a treaty which should receive the constitutional approval of the Senate; and obviously they did not assume the position of guarantors with respect to a situation that they could not control. The overwhelming vote for Senator Harding for President created a new situation. It greatly strengthened the position of those who were absolutely opposed

to having the United States enter the League on any terms, by reason of their belief that the huge majority for him was due to the votes of those who held views similar to their own, and that those votes sufficed to place him in the White House. This was, in fact, the view that Republican opponents to the treaty actually held. The new President was bound to reckon with the situation as he found it. Whatever may have been his hopes when he was inaugurated, he was immediately confronted with the question whether he should commit the folly of wrecking the Administration by remaining steadfast to the policy that he had previously encouraged the thirty-one Republicans to enunciate in October 1920, or abide by the will of what appeared to be a majority of those who had elected him. The President chose the latter course. Moreover, there is solid reason to believe that if he had taken the former, he would have initiated a controversy which would have surely served to prevent the accomplishment of the end desired. The opposition to the treaty was far too strong and determined and resourceful. Republican leaders in the Senate had simply determined that there should be no membership in the League on any terms. Accordingly, President Harding, in his message of April 12, 1921, said: "There can be no misinterpretation, and there will be no betrayal of the deliberate expression of the American people in the recent election; and, settled in our decision for ourselves, it is only fair to say to the world in general, and to our associates in war in particular, that the League Covenant can have no sanction by us."

The Secretary of State did not feel that it would be justifiable for him to resign the responsibilities which he

had assumed simply because President Harding did not undertake what the Secretary himself was convinced that the President could not accomplish. On the contrary, he felt that his abandonment of the Administration in the circumstances would amount to unworthy conduct which he could not condone. For that reason he stuck to the office which he had just assumed and endeavoured to meet the situation as he found it.

In an earlier chapter attention has been called to the mode by which Secretary Hughes succeeded in gaining for his country through a treaty with Germany the benefit of numerous important rights that it had agreed to yield under the Treaty of Versailles.[189] These were, however, rights extrinsic to provisions constituting the Covenant of the League of Nations.

The new Secretary of State was obliged to take cognizance of the existence of another condition—the actual functioning of the League of Nations, which was in vigorous operation notwithstanding the aloofness of the United States. In his judgment that circumstance rendered it idle for his country to attempt the formation of another association of nations. He was thus confronted with a peculiar situation. The United States was outside of the League and indisposed to enter it. Nevertheless, that body was engaged in a variety of activities for the common good in which the United States acknowledged an interest. The question presented itself whether the United States, although not a member of the League, should co-operate with it in the solution of problems in which it was interested. Secretary Hughes felt that non-membership was not necessarily a deterrent of co-operation. Still, he took occasion to observe that as

the United States had decided not to become a member of that body, "its Government cannot act as though it were a member." While he was disposed to appoint representatives to act with the League in respect to particular matters, he declared that the Government could not appoint its representatives as members of the League Council, Assembly or committees, and that this fact was properly recognized when it appointed so-called observers or "unofficial representatives" who had appropriate contacts with agencies of the League in matters affecting American interests or humanitarian concerns that appealed to the United States. In reality unofficial representation, in so far as the Government of the United States was concerned, amounted to full American representation, because the American representatives were unofficial only in the sense that they were not official members of the League organs. They represented the United States, the Secretary declared, "just as completely as those designated by the President always have represented our Government in the conferences and negotiations which he properly authorizes in the conduct of our foreign relations. Of course, such representatives can not enter into any agreements with other governments until they are appointed in accordance with the requirements of our Constitution. There is nothing new in that."[190]

Irrespective of the League of Nations, the Secretary of State perceived that the prevailing thought in the United States forbade its Government to do some things and encouraged it to do others. That fact fortified, in his judgment, the belief that, in general, American influence "would not be increased by pooling it," and that that

influence, due to the detachment and impartiality of the United States, could not long be maintained if it should accept the role of a partisan in European quarrels where no direct American interest was to be perceived. He felt that his country was still opposed, as it had been in Monroe's time, to alliances, and also to commitments in advance "with respect to the employment of the power of the United States in unknown contingencies." This attitude was not due to the coming into being of the League of Nations. It had characterized the foreign policy of the United States for a century. In the mind of the Secretary of State, the American people had not indicated a willingness to change that policy, and looked askance at any proposals which spelled abandonment of it. In the light of that fact he summarized the determinative principles of the foreign policy of the Administration as independence and co-operation. To quote his own words: "Independence—that does not mean and never has meant isolation. Co-operation—that does not mean and never has meant alliances or political entanglements." He declared that the only room for debate was as to the means of appropriate co-operation, congenial to American traditions and institutions, and that in seeking a wise and available course it would be a serious mistake to sacrifice substance for form and to make everything turn on the question of formal organization and American relationship to it. Participation in political questions abroad to which the United States had been invited was, he declared, still opposed by preponderant sentiment. The real question was, he added, as to the subjects in relation to which the United States should and could effectively co-operate.[191]

He found that there were numerous matters of a non-political character in which his country might well co-operate with others; and he was far from disposed to withhold co-operation when the League of Nations offered itself as the agency or means of achieving the common end. Where humanitarian labours aimed to minimize or prevent evils which could not be met adequately save by community of effort, he felt that his country should, and was ready to, support international conferences embracing those under the auspices of the League. Moreover, he found no difficulty in dealing with its organization for such purposes. In seeking the solution of the problem touching the control of production and distribution of opium and derivative drugs, in which the United States was deeply interested, he did not hesitate to deal directly with the appropriate committee of the League when effort was made under its auspices to carry out adequately the purposes of the Hague Convention of 1912. [192] Thus it was that the American delegation at the Narcotics Conference, under the leadership of Mr. Porter, chairman of the House Committee on Foreign Affairs, made a determined effort at Geneva in behalf of proposals of the United States "to put an end to the excessive production of opium and the evils of the distribution and consumption of narcotic drugs."[193] Secretary Hughes took occasion to say: "Similarly, we have had the representatives of this Government in collaboration with the committees of the League in relation to Anthrax, Public Health, Anti-toxic Serums, Traffic in Women and Children, Relief Work, and the Control of the Traffic in Arms."[194]

The Secretary of State acted on the principle that

when several nations were utilizing a permanent international organization in order to carry on and strengthen international activities of an essentially non-political aspect touching matters of direct concern to the United States, co-operation with it was not necessarily undesirable, and might in fact become distinctly advantageous. Moreover, he endeavoured to make it clear that whether the United States co-operated in a particular matter with foreign countries, with or without the agency of the League, depended upon its conception of its duty and interest in relation to the matter, in the light of undertakings which could properly be made under the Constitution and with the prospect of attaining legislation which might become necessary in order to carry into effect the contemplated action. Accordingly, he took pains to scrutinize faithfully the nature and extent of the interest of the United States in each matter in respect to which it was invited to co-operate, and also to observe whether the agency or the contemplated method of co-operation offered a reasonable means whereby the United States could enhance respect for principles or aims to which it avowed attachment. In judging of the processes of co-operation he was alert to perceive and cautious to withhold approval of devices designed to lodge in international bodies more than administrative control over important matters of large concern to the interested states. Co-operation that meant the delegation of decisions on matters of state policy to alien bodies, howsoever constituted, was opposed, in his judgment, to the interests of the United States and hence objectionable. Co-operation that, on the other hand, offered unhindered opportunity for independent states to confer and negotiate

and perchance agree to self-imposed restraints for the common weal appeared to him in a different light. Whenever the League of Nations seemed to offer a convenient means and a favourable atmosphere for the attainment of desirable ends through such processes, Secretary Hughes was not disposed to stand aloof.

Such were the considerations that impelled the Secretary of State to act as he did. He had undergone no change of mind or heart since the day when the Treaty of Versailles was signed. He had never ceased to believe that the acceptance of that treaty, embracing the Covenant of the League, under appropriate reservations, would have been advantageous to the United States. On the other hand, he, like President Harding, became perfectly aware of the fact that the Senate was adamant in its opposition to such a course. He dealt with the situation as it was. Notwithstanding the obstacles which it created, he did not permit them to prevent his country from such co-operation with the League of Nations as its interests in the solution of common problems from time to time dictated. Both with and without that co-operation the United States, from March 1921 to March 1925, probably enjoyed a more intimate contact and a closer relationship with foreign states than it had had for a century. The Washington Conference of 1921–1922, with its fresh provisions for meeting certain problems of the Far East by conferences of the interested powers, the Central American Conference of 1923, the numerous efforts to bring about the adjustment of Latin-American differences, the devising of and the smoothing of the way for successful operation of the Dawes Plan, together with co-operation in the humanitarian endeavours of the

League, may be cited as instances. They reveal the firm conviction of Secretary Hughes that whenever its interests so demanded, the United States should not hesitate to co-operate with the countries of any continent through any agency found appropriate therefor. Whether those interests demanded co-operation, and also the form that co-operation should properly assume, were, however, matters respecting which he believed that his countrymen were insistent that the United States should retain the right freely to decide for itself.

CHAPTER XVII

THE NEW HAVEN ADDRESS AND THE DAWES PLAN

LONG before the close of the year 1922 it had become apparent that the reparation problem was the root of the economic difficulties which confronted Europe, and that there was wide divergence of opinion concerning its solution. Germany was not meeting her fiscal obligations incurred under the Treaty of Versailles. Her industries were becoming prostrate and she was not producing. She could not foresee how much she would be obliged to pay her former enemies, nor did they know how much she could eventually pay. Moreover, the Reparation Commission was offering little united or helpful aid. The situation was becoming increasingly complicated because of the readiness of interested statesmen to treat the question as a political rather than an economic one. They were considering the use of force in order to penalize or coerce the delinquent debtor. That such measures might not only encourage protracted delinquency, but also weaken the capacity of the debtor to make reparation payments, did not appear to be influential factors and were subsequently ignored by certain creditor states.

Prior to his departure for Brazil, in August 1922, Secretary Hughes in the course of conversations with two persons connected with the Department of State

made the suggestion that it would be wise for France and the other interested states to invite their most eminent financiers to formulate a plan for the solution of the reparations problem and by that process remove the matter from the domain of politics. In September Mr. Herrick, the American ambassador to France, was in the United States. Secretary Hughes discussed the matter with him, directing him on his return to his post to suggest to M. Poincaré, the French Premier, the desirability of the utilization of an essentially non-political fiscal aid. Mr. Herrick returned to Paris in October and carried out his instructions. He reported, however, that the matter had seemingly been pigeon-holed. Secretary Hughes thereupon instructed the ambassador to renew the suggestion. In the mean time the former conferred with M. Jusserand, French ambassador at Washington, to the same end and made it clear that, in his judgment, American experts would gladly co-operate should France follow the plan which he was proposing through Mr. Herrick. There were repeated interviews in which Secretary Hughes suggested that M. Poincaré should make the plan his own; but it did not meet with favour, as it was insisted that there was still a prospect of agreement at the Allied conferences. When the Allied powers were holding these conferences in December, with another scheduled for early in January, M. Poincaré expressed the hope that an agreement would then be reached. France had not announced that she was going to occupy the Ruhr region of Germany. Nothing definite in that regard was known. Nevertheless, the Secretary of State felt that a break was coming and that in such event the

occupation of the Ruhr was to be anticipated. What distressed him was the fact that the plan which he had proposed was not being adopted and that there was no prospect of a successful solution by any different procedure. Secretary Hughes had not desired premature publicity, as he believed that this might endanger the proposal while there was a chance for its favourable consideration; but as the time for the January meeting approached, he felt that in some way, without giving offense, the proposal should be made public.

On the morning of the 27th of December 1922 Secretary Hughes awoke very early with an idea as to an appropriate mode of making clear his position. It so happened that he had prepared an address to be delivered at New Haven on the evening of December 29, before the American Historical Association, on some aspects of the foreign policy of the United States. The address was then completed. It occurred to its author that he might well insert the terms of the proposal which he had made. He immediately arose and began to write a statement of his plan. He finished the task in about an hour. Before breakfast he telephoned the White House to inquire whether President Harding could see him on his way to the Department. About nine o'clock he called upon the President and read to him the written statement. The President warmly approved. The Secretary went to the Department and had the insertion incorporated in the text of his address and in the so-called press releases for publication on the morning of December 30. Copies were sent to the embassies at Washington of every Allied power.[195]

It was under such circumstances that the Secretary of

State made public his constructive suggestions, which proved ultimately to be as influential as any that he ever offered to countries other than his own.

In his address he stated that the economic conditions in Europe were of the greatest concern to the United States, which could not escape the injurious consequences of failure to settle problems for which those conditions were responsible. He said that these problems were essentially European, in the sense that they could not be solved without the consent of European governments. The crux of the European situation lay, he declared, in the settlement of reparations. Until a definite and acceptable basis for the discharge of reparation claims had been fixed, he asserted that there would be no adjustment of other needs. He asked how the United States might help in the matter. He stated that it was not seeking "general reparations," although it did ask for reimbursement of the cost of the American Army of Occupation.[196] He declared that the capacity of Germany to pay was not at all affected by the indebtedness of any of the Allied powers to the United States, and that that indebtedness did not diminish Germany's capacity, and that its removal would not affect her capacity.

Concerning the attitude of the United States towards the question of reparations, standing itself as a distinct question, he said that his country had no desire to see Germany relieved of her responsibility for the war, or of her just obligations to make reparation for the injuries due to her aggression, and that there was not the slightest desire that France should lose any part of her just claims. On the other hand, he declared that the United States did not wish to see a prostrate Germany, and that

there could be no economic recuperation in Europe unless Germany herself recuperated, and that there would be no permanent peace unless economic satisfactions were enjoyed. "There must be hope," he said, "and industry must have promise of reward if there is to be prosperity. We should view with disfavor measures which instead of producing reparations would threaten disaster." He declared that the first condition of a satisfactory settlement was that "the question should be taken out of politics." He expressed the hope that statesmen would effect a settlement of the issue, as the alternative of forcible measures to obtain reparations was not an attractive one. If, however, statesmen could not so agree, and such an alternative was faced, he asked what could be done. He proposed himself the following response:

> "Why should they not invite men of the highest authority in finance in their respective countries—men of such prestige, experience and honor that their agreement upon the amount to be paid, and upon a financial plan for working out the payments, would be accepted throughout the world as the most authoritative expression obtainable? Governments need not bind themselves in advance to accept the recommendations, but they can at least make possible such an inquiry with their approval and free the men who may represent their country in such a commission from any responsibility to Foreign Offices and from any duty to obey political instructions. In other words they may invite an answer to this difficult and pressing question from men of such standing and in such circumstances of freedom as will insure a reply prompted only by

knowledge and conscience. I have no doubt that distinguished Americans would be willing to serve in such a commission. If Governments saw fit to reject the recommendation upon which such a body agreed, they would be free to do so, but they would have the advantage of impartial advice and of an enlightened public opinion. Peoples would be informed, the question would be rescued from assertion and counter-assertion, and the problem put upon its way to solution.

"I do not believe that any general conference would answer the purpose better, much less that any political conference would accomplish a result which Premiers find it impossible to reach. But I do believe that a small group, given proper freedom of action, would be able soon to devise a proper plan. It would be time enough to consider forcible measures after such an opportunity had been exhausted. Such a body would not only be expert but friendly. It would not be bound by special official obligations; it would have no animus and no duty but to find and state the truth. In a situation which requires an absence of technicality and immunity from interference, I hope that the way may soon be found for a frank discussion and determination of what is essentially an economic problem."[197]

These words gained widest attention in every quarter. They brought, however, little comfort to statesmen bent on a course shaped according to political considerations. Nor did they serve to check the French and Belgian occupation of the Ruhr, which took place early in 1923.

The Secretary of State became profoundly interested in the political and economic consequences of events in

the Ruhr, in Germany's passive resistance, in the rigorous measures to which France and Belgium had recourse, and in their effect upon both the German will and the German capacity to make reparation payments. He watched closely the controversy that developed between Lord Curzon on the one side, and M. Poincaré and the Belgians on the other, in respect to the legality and fruitfulness of the occupation and as to measures needed to save the situation. He saw political considerations gain the ascendancy and defy economic principles. He saw passive resistance gradually overcome and the resister gradually crushed. During the summer of 1923 the issue between Great Britain and France became acute.[198] Reparations were not forthcoming. Before the end of September, however, Germany abandoned her policy of resistance.[199]

On October 9, 1923 President Coolidge intimated publicly that the United States rested upon the proposal which Secretary Hughes had made at New Haven in December 1922.[200] Four days later Mr. Chilton, the British chargé d'affaires at Washington, communicated to Secretary Hughes a note from the British Government in which it was stated that an extremely critical economic position had arisen in Europe owing to failure to find any solution for the reparation problem, which was becoming daily more acute as the financial and political condition of Germany was growing worse. The absence of unity of thought among the European powers, which might render common action feasible or prove successful in finding an early solution, was deplored. To this lack of unity between the French and British Governments was assigned the reason why Secretary Hughes's proposal

had not been "proceeded with." It was declared that if His Majesty's Government had rightly interpreted the statement of the President, and could count upon an encouraging reception being given to such a proceeding, that Government would not hesitate to invite the immediate co-operation of their Allies in Europe in an invitation to the United States Government to assist in a proposed inquiry by deputing a delegate, whether official or unofficial, to take part in it. It was asked whether, if it were proposed to hold such an inquiry, "although complete unanimity had not been forthcoming," American co-operation might still be hoped for. Alternatively, if it were proposed that such an inquiry should be entrusted to the Reparation Commission or to a body appointed by it, it was asked whether America would still be willing to participate.[201]

Secretary Hughes made response in an *aide mémoire* of October 15, 1923.[202] Declaring that "present conditions" made it imperative that a suitable financial plan be evolved to prevent economic disaster in Europe, he expressed hope that the German Government's abandonment of resistance would "present a freer opportunity and an immediate necessity for establishing an economic program." He announced that his Government was entirely willing to take part in an economic conference in which all the European Allies chiefly concerned in German reparations might participate "for the purpose of considering the questions of the capacity of Germany to make reparation payments and an appropriate financial plan for securing such payments." He added that the Government of the United States had no desire to see Germany relieved of her responsibility for the war or of

her just obligations; that, in the effort to attain the ends in view, regard must be had for the capacity of Germany to pay and for the fundamental condition of Germany's recuperation, without which reparation payments would be impossible. Such a conference, he said, should be advisory, not for the purpose of binding governments naturally unwilling to pledge their acceptance in advance, but to assure appropriate recommendations by a thoroughly informed and impartial body intent upon the solution of the difficult problems upon their merits. He added that the United States had consistently maintained "the essential difference between the questions of Germany's capacity to pay and of the practicable methods to secure reparation payments from Germany, and the payment by the Allies of their debts to the United States which constitute distinct obligations." He said that while his Government was not in a position to appoint a member of the Reparation Commission (inasmuch as such appointment could not be made without the consent of Congress), he had no doubt that competent American citizens would be willing to participate in an economic inquiry for the purposes stated, through an advisory body appointed by the Reparation Commission to make recommendations. He concluded with the statement that the questions involved could not be finally settled without the concurrence of European Governments directly concerned, and that he hoped that the project of an inquiry of an advisory nature might commend itself to all of those governments; but that if there was lack of unanimity on the part of the European powers, the United States would be obliged to reserve decision as to its course of action.

Great Britain thereupon drew up the text of a proposed invitation and sent it to the Belgians, French, and Italians; the Belgians and Italians approved in substance, but France responded with certain limitations. While the French Government recognized the right of the Reparation Commission to name expert advisers, it announced that it would not "accept" that a committee of experts should change the amount of the German debt as fixed May 1, 1921, and that it would give its consent to no reduction whatsoever in the amount of the obligations of Germany as fixed on that date by the Reparation Commission.[203] Simultaneously M. Poincaré manifested anxiety lest French treaty rights were to be assailed, and appeared to believe that they needed safeguarding. Moreover, he began to advert to the possibility of an inquiry into Germany's "present capacity to pay."[204]

The Secretary of State explained that the American proposal contemplated a conference or a committee of experts for the purpose of considering Germany's capacity for making reparation payments, and an appropriate financial plan securing the payments; that obviously no treaty right of France could be changed without her consent; that in order to develop a comprehensive plan responsive to the end in view a full inquiry was very necessary; and that such a procedure was not at all in derogation of the question of final action on such a plan as might be developed. He emphasized the point that no reparation payments were being made, and that if matters continued as they were, there would not be any reparation payments. He adverted to the misfortune of an abortive inquiry. He said that his whole idea was that

some expert body should meet for the purposes stated, and then have its plan or report acted upon either by the interested governments or by the Reparation Commission. The fundamental necessity was, he declared, an inquiry which would rescue the situation, one which would not be in anyone's interest, and certainly not against that of France, but which would be for the purpose of effecting a settlement of the complex matter—a financial plan that would prevent disaster. Secretary Hughes, moreover, pressed for information as to the meaning of M. Poincaré's phrase "present capacity" of Germany; and he made it clear that if limitations were placed upon the questions for investigation, the United States would feel that a new situation had arisen and one not referred to in the *aide mémoire* communicated to the British Government.[205]

It may be unnecessary to trace the causes of events that followed. On November 30 the Reparation Commission took the matter up and unanimously adopted a resolution declaring that in order to consider "the resources and capacity of Germany" it was decided to create two committees of experts belonging to the Allied and Associated countries, one of which would be entrusted with considering the means of balancing the budget and the measures to be taken to stabilize the currency, and the other with the means of estimating the amount of exported capital and of bringing it back into Germany.[206] On December 5 M. Louis Barthou, president of the Reparation Commission, wrote to Colonel John A. Logan, the American observer with that Commission, expressing the hope that the Government of the United States might acquiesce in the acceptance of invitations by Amer-

ican experts to participate in the labours of the committee.[207] On December 12 M. Barthou was informed that while the Government of the United States was not in a position to be represented on the committees, it believed that the proposed inquiries would be of great value and that it viewed with favour the acceptance by American experts of invitations to participate in the work of the committees.[208] Shortly thereafter the Reparation committee appointed three American citizens to act among its expert advisers: General Charles G. Dawes and Mr. Owen D. Young to serve on the first committee, and Mr. Henry M. Robinson to serve on the second.[209]

The report from the first committee of experts, constituting the so-called Dawes Plan of April 9, 1924, was submitted to the interested powers and by them duly acquiesced in. As an English writer has observed: "In the end an international body of economists and financiers found at least a provisional solution for a problem which had baffled the statesmanship of Europe for four years. . . . In adopting at the outset the standpoint of business and not of politics (Part I, Section I), the Committee were faithful to their terms of reference which embodied the ideas of Mr. Hughes." [210]

It still remained for the Allied powers to agree to the procedure requisite to put the Dawes Plan into operation. Their negotiations resulted in a conference at London in July 1924, in which the United States was invited to, and did in fact, participate.[211] It happened that Secretary Hughes, who was president of the American Bar Association, was in London at the time of the conference, in attendance at the meetings in the course of which the association enjoyed the hospitality of the British bar,

and a few days later was in Paris, where the French bar greeted their American colleagues. Secretary Hughes thus had the opportunity of discussing informally the pending negotiations with the foreign statesmen at both capitals. He then went to Berlin, where he met the German delegates immediately before their attendance at the London conference. In these interviews he made clear the American point of view.

On August 2 the French delegation at the London conference proposed that immediately after the close thereof the Allied Governments hold a conference of finance ministers in Paris, for the purpose of considering the allocation of German payments after January 1, 1923. Secretary Hughes lost no time in instructing Ambassador Kellogg to serve notice of the desire of his country to be represented at such a conference. The ambassador did so on August 5, calling attention to the fact that under the Dawes Plan payments to be made by Germany were to comprise all amounts for which Germany might be liable to the Allied and Associated powers for the costs arising out of the war, including reparation, restitution, clearing-house operations, etc.; and he adverted specifically to the claim of the United States for its army costs and for certain war damages which were being adjudicated by the Mixed Claims Commission at Washington.[212]

Preparatory to the Paris conference of finance ministers, which convened in January 1925, the United States discussed its claim with Great Britain. With respect to the costs of the American Army of Occupation, Great Britain, as well as her Allies, having accepted the basis of an agreement (which remained unratified) of May 25, 1923, looking to the reimbursement of the United States

out of revenues received from Germany, was not disposed to deny that out of the Dawes annuities there should be paid to the United States sums to reimburse it on that account.[213] The existing record left no alternative.

The American claim to participation in the Dawes annuities in order to satisfy awards for war damages handed down by the Mixed Claims Commission, established under the agreement between the United States and Germany of August 10, 1922, was vigorously opposed by Great Britain. It contended in substance that by failing to ratify the Treaty of Versailles the United States had forfeited its right to reparation thereunder, and that no subsequent agreement between the United States and Germany could deprive a state such as Great Britain of its rights under the earlier arrangement. Moreover, it was declared that it had always been understood that American claims for reparation would be satisfied out of German property seized in the United States; and surprise was manifested that the United States sought to participate in the Dawes annuities.[214]

Secretary Hughes stated with fullness the precise reasons on which his country based its claim. He sought to make clear the basis of the right of the United States to participate in a particular fund for a stated purpose.[215] It did not detract from the strength of his argument that he accentuated the equitable considerations which supported it. Thus when he pointed out that the United States had seen fit voluntarily to limit its claims against Germany to categories of damages for injuries to persons and property and war debts, whereas its co-belligerents were demanding reparation payments to cover pensions,

assistance to prisoners of war, their families and dependents, and allowances to families and dependents of mobilized persons, etc., and that the claims within these latter categories submitted by the Allied powers amounted to very large sums, he fortified his demand that the legal basis of the relatively modest claim of the United States be respected.

He declared that it was both repugnant to equity and inadmissible in law to assert that the Allied powers as parties to the Treaty of Versailles could by virtue of that instrument assert a charge upon all the assets of Germany to the exclusion of the United States from the recovery of its just claims, and that as it had effectively participated in the war and contributed to the common victory, it was equally entitled with its co-belligerents, as one of the Allied and Associated powers, to enforce those claims against Germany. He stated that the armistice agreement provided for reparation for damage done, with reservations that any subsequent concessions and claims by the United States and the Allies should remain unaffected. The British contention was in substance, he declared, that one or more of the Allied or Associated powers could fairly make a separate agreement with Germany by which they would be entitled, not merely to recover on their own claims, but also to deprive their co-belligerents of satisfaction. He pointed out that the Treaty of Versailles provided that it should come into force when ratified by Germany and three of the powers; and he maintained that if the treaty had for any reason been unacceptable to Great Britain and had come into force without British ratification, it was impossible to believe that the British Government would have as-

sented to the position that the ratifying powers—such, for example, as Italy, France, and Belgium—could have rightfully demanded the appropriation of all the available property of Germany and so leave Great Britain without any German asset out of which to satisfy its claims. That a treaty should not modify the obligations undertaken by one contracting party in favour of others did not, he declared, justify the view that other powers could by a previous agreement justly curtail the rights of third states. He adverted to the fact that, in consequence of the very terms of the Treaty of Versailles, the powers which ratified it definitely affirmed the liability of Germany to each of the Allied and Associated powers for the damages which each had suffered from the war, and that it was from damages of such a kind that the American claims against Germany arose. The right of the United States was not impaired, he maintained, by its failure to ratify that treaty. He declared, moreover, that his country had not sought by its treaty with Germany of August 25, 1921 to enforce its own claims at the expense of the nations with which it had been associated in the war. There was no room for doubt on this point.

The Secretary of State contended that nothing in the Treaty of Versailles was designed to incapacitate Germany from providing for the payment to the United States of the separate claims of itself and its citizens, and that the Dawes Report made it "clear" that the sums to be paid thereunder "comprise all amounts for which Germany may be liable to the Allied and Associated powers, including reparation, restitution, all costs of all armies of occupation, etc.," and that it was thus the intent of the Dawes Plan to provide comprehensively for

all the payments that Germany could make. He declared that when it came to the notice of his Government that there was likelihood that consideration would be given to the inclusion of such payments by Germany as would exhaust her full capacity of payment, that Government directed attention to the claims of the United States, that there might be no question about their exclusion; and he adverted to Ambassador Kellogg's statements at the London conference in August 1924.[216] That the Dawes Report contemplated that the funds in the hands of the agent-general of reparations should be charged with all the claims against Germany, including those of the United States, Secretary Hughes did not consider open to question.

Secretary Hughes referred to the treaty between the United States and Germany of August 25, 1921, and to the responsibility there undertaken by reference to the Treaty of Versailles, and also to the later relinquishment by the United States of claims for pensions, assistance to prisoners of war, their families and dependents, and allowances to families and dependents of mobilized persons, etc. He declared, however, that its just claims for actual injuries to persons and property, and debts, the United States had no intention of giving up, and that he had expressed no intention of doing so in his New Haven speech; and that he had there referred to "general reparations," meaning thereby the claims which his country, as stated, was not pressing, rather than those classes of claims which were then in process of adjudication pursuant to the claims agreement with Germany which he had already negotiated. He adverted also to the clear equities supporting the American position which he understood were not disputed.

With respect to the suggestion that payment of the American claims be satisfied from German property which had come into the hands of the United States Government, he adverted to the freedom enjoyed by each government under the Treaty of Versailles, in dealing with such property as it might see fit; secondly, to the fact that some of the Allied powers, if not all, had released a part of such seized property as was in their hands; and, thirdly, to the circumstance that only in the event of the retention of such property, or the proceeds derived from the sale of it, was the amount of the value of the property or of the proceeds of sale to be credited against claims, and that the United States enjoyed the same freedom in that regard as the other powers, which, in its own case, was subject to the control of Congress.

Great Britain persisted in denying the soundness of the American claim. It admitted, however, that when more powers than one had claims against the same state, it would no doubt be contrary, "if not to established rules of international law, at any rate to the commonly accepted understanding of international intercourse," for a creditor power to conclude without the assent of other powers similarly situated, or without giving those powers an opportunity of equal advantage, a treaty with a debtor state which would have the effect of depriving the debtor of the capacity of making similar provision for the claims of the other creditors. It was contended that the Treaty of Versailles was not such a separate treaty, "made by one power with the aim or effect of getting an exclusive advantage," but rather a treaty negotiated in behalf of the United States and twenty-six other states, all of whom, except China, signed it. "The treaty," it was

said, "gave to the powers who accepted it certain rights and imposed certain burdens on them. And powers which signed but did not ratify the treaty clearly forewent those rights and escaped those burdens of their own voluntary choice."[217] Secretary Hughes responded by saying that this argument appeared to be "that the United States was compelled to ratify the Treaty of Versailles in order to retain its rights; or that the Allied Powers could accomplish the result of securing all the assets of Germany for their exclusive benefit by inviting the United States to join in a treaty containing unacceptable terms." He added: "The question is not one of assuming obligations under a treaty relative to the benefits it confers." He repeated his assertion that the Government of the United States was "unable to reach any other conclusion than that the Allied Powers have no right in law or equity to take for their own benefit all the payments that Germany can make and deny participation to the United States for its proper claims."[218]

Great Britain did not continue the controversy, and an amicable arrangement was made. The Paris agreement of January 14, 1925, for the distribution of the Dawes annuities, allocated to the United States a share in those annuities "in reimbursement of the costs of the United States Army of Occupation and for the purpose of satisfying the awards of the Mixed Claims Commission in pursuance of the Agreement between the United States and Germany of August 10th, 1922."[219]

By suggesting the method which was found to offer the one feasible means of solving the reparation problem, Secretary Hughes made a contribution towards the rehabilitation of Europe, the value of which still remains be-

yond appraisal. Although representing a nation that stood aloof from world organization, his proposal itself constituted, and was productive of, an essentially international service, as beneficial to other countries as to his own. Strangely enough, the man who had paved the way for the Dawes Plan found himself burdened with the task of pleading with all his might to prevent his own country from being deprived of annuities under that plan. If his argument had been unavailing, the United States could still have afforded the resulting loss to itself as the price of a distinctive American contribution towards the alleviation of European ills. But the soundness of its claim and the skill of its advocate banished such a contingency. Its Secretary of State won the case for his country as he had earlier won that in behalf of economic principle.

CHAPTER XVIII

THE MAN AT WORK

CHARLES EVANS HUGHES at work was the man at his best. In his office he revealed what was not always apparent outside of it, even in the congenial atmosphere of informal social gatherings. To serve under him and near him was not only to see how he exercised his mental powers and the technical skill with which he lifted his load, but also to observe the forces that took hold of him and aroused his interest and vigour, and to understand the restraint under which he held himself. Close and continued associations with any man are likely to reveal him as he is; but oftentimes the revelation is insignificant because of the nature of his work or the limitations of the worker. In the case of a Secretary of State, the effect of his labours is of such importance to his countrymen that the spirit and mode and technique with which he approaches them are matters of national concern. They establish the competence or incompetence of the individual to hold the secretaryship.

The problem of a Secretary of State is to work amid distractions. The diversity of his own official tasks is such as to allure him from one matter to another with a frequency that banishes opportunity for serene consideration of what may well deserve prolonged study. The exactions of callers offer, however, an even more serious obstacle. Such visitors are not confined to the members of the diplomatic corps or officers of the Government, in or

out of Congress, who have business to transact with the Department. They embrace also many who urgently seek a conference for purely private purposes. Thus the intervals for real work are surrounded by such a diverting setting that one often wonders how a Secretary of State can reach a decision on any perplexing matter. What greatly aided Secretary Hughes in utilizing the gaps between callers was the ease and celerity with which he could focus his mind on the immediate problem before him to the exclusion of all else. He might, for example, summon a subordinate for an extended conference on an important case, and before the man had left his office, be himself engrossed in the consideration of another matter. Again, he would not allow himself to be thwarted or diverted by irrelevant or trifling matters, or by the details of routine. He never failed to distinguish between what was and what was not entitled to his time. In the process of discrimination he was inclined to place upon the shoulders of his subordinates whatever, in his judgment, they were competent to handle. When a question of principle or policy was involved, the Secretary himself accepted the burden of solution. He realized that the decision rested with himself, and had no disposition to delegate the task to anyone else. In performing it he was unsparing of time and thought, and sought all the light that the Department could shed.

On the diplomatic and consular services of the United States, which during his regime were, through the operation of the Rogers Act, welded into the so-called Foreign Service,[220] Secretary Hughes placed utmost reliance. With individuals assigned to the Department of State he had daily intercourse. He imposed upon them a degree of

responsibility and exacted from them a measure of competence that stimulated the effort to make the best response that was humanly possible. He cheered new consuls as they entered upon their careers.[221] He imparted to the younger diplomats a fresh understanding of what their successful labours might mean to the United States. He did everything in his power to advance both services, not only by urging the passage of the so-called Rogers Bill, but also by encouraging the Presidents under whom he served to select nominees for appointment as ministers or ambassadors from among the available officers of lesser grade.

By calling into frequent conference the various individuals in the Department familiar with the particular matters that reached his desk, he not only learned the qualifications of his subordinates, but also quickened their sense of responsibility, and bred loyalty to the service and devotion to himself. That devotion became the common trait of all who were summoned to his office. He made them feel that they were co-workers with him in a great cause, and that they were, like himself, burdened with the advocacy of it. He became acquainted with their sorrows and shared their joys. If he criticized without reserve the weakness or insufficiency of their work, he gave full credit for what had merit. His constant desire was that no paper to which his signature might be affixed should place the Government of the United States in a false position or give expression to an unjust or unwise decision. Consequently he had little sympathy with proposals from any source which were heedless of his wish, and less patience with the individuals responsible for them.

Secretary Hughes was himself so formidable an antagonist of whatever he opposed that quite unconsciously he encouraged his subordinates to submit suggestions of which they believed that he would surely approve, rather than offer him the fruit of their own independent thought. Some persons in the Department would never essay to argue with him. Others would fight a losing battle with a persistence that did credit to their courage. Still others, aware of his probable objections to their views, would, nevertheless, state them frankly in order that he might have in mind every obstacle to be anticipated before he reached a final decision. In reality the Secretary of State was far from harbouring malice against a subordinate who could find a flaw in his reasoning or who could disclose a danger in a policy that was contemplated. His chief fear was lest he might expose either the country or the President to attack; hence any suggestion that was calculated to safeguard either was always welcome. The qualities that made Secretary Hughes himself a safe and strong man upon whom a President might well rely were the ones which he sought to inculcate in those around him. If at times they felt the rigour of the discipline, they were unceasingly appreciative of such a master, and none would have preferred a different school.

When he assumed office, Secretary Hughes was imbued with a sense of obligation to respect certain principles. He regarded as sacred the rights of the individual and was resolved never to permit them to be impaired by the purely administrative action of a governmental agency under his control. Thus he would not allow the Department of State to assume the prerogative of a court

of justice and take action which would serve in itself to expatriate a naturalized American citizen. Nor would he consent that an arbitrary rule be accepted as a guide for general application lest it might cut off a solid right of the person to whom it was adversely applied. Bureaucracy was repulsive to him; and to his mind it assumed a hideous form whenever it enabled or encouraged administrative officers to invade the right of the individual to law itself. There were times when he took great pains to prevent an invasion.

Secretary Hughes was determined that the Department of State should maintain a judicial attitude in dealing with the relation of American citizens to foreign affairs, and also retain an unsullied reputation in the estimation of citizens whose political affiliations were opposed to those of the Administration. While, as the dominant member of the Cabinet, he felt it a privilege and duty to take the stump in 1924 in behalf of the President whom he served, he would allow no subordinate to do likewise. This was one of the obvious modes by which he endeavoured to banish politics from his official family.

In the course of the variety of diplomatic controversies of which the solution seemed to be a normal incident of his office, the first concern of the Secretary of State, after he had ascertained the facts, was to be sure of the law and to be clear as to the respective rights of the parties. Those rights he was scrupulous to heed. If the circumstances of a case revealed to him that the United States had done injustice to a foreign country, he did not evade the fact or the consequences of it; nor did he hide his resentment of any defense that betrayed confusion of thought or lack of candour. On the other hand, if the

United States was the aggrieved party, or if, in his judgment, it had done no wrong, he stood rigid and pleaded its cause with alacrity. He enjoyed such contests with foreign offices. He found amusement in responding to inaccuracies of statement or to unsound assertions or to illogical conclusions. He was at times the recipient of notes characterized by such weaknesses. He took delight in preparing trenchant statements of principle and of fact and in endeavouring so to apply them as to silence an adversary. He was always careful not to make a statement and not to encourage the President to take a stand which might subject the United States to the charge of having committed illegal conduct, to be branded as such by an international tribunal and obligating the nation to make reparation.

The proposals of Secretary Hughes at the Washington Conference on Limitation of Armament and those leading to the creation of the Dawes Commission and his labours in behalf of its report will doubtless be looked upon as the most far-reaching of his achievements. They were inspired by conditions resulting from the World War. Their influence was attributable to his determination to approach in a judicial spirit a series of problems the solution of which was of grave concern to numerous other countries as well as his own. His views obtained because they were the product of his struggle to be fair to every interest concerned. His only diplomacy was that founded upon the requirements of justice as he understood them; and because it was realized abroad that he had not misconceived those requirements, his proposals were appraised at their true value.

In the same spirit and with the same methods he

grappled with the other tasks confronting him. The hardest ones were likewise a legacy from the World War, occasioned in large degree by the fact that the terms of the Treaty of Versailles were not acceptable to the United States. This circumstance, as has been noted, served to place upon the shoulders of Secretary Hughes the burden of explaining and demanding respect for the rights of his country which grew out of its participation in the conflict and which were registered in a treaty to which it was not a party. The untwisting of the legal rights of the United States from the entanglements of the wreckage produced by the war, and the clarification of those rights before countries indisposed to respect them, thus became the undramatic and principal burden of the Secretary of State who assumed office on March 4, 1921. It remained his heaviest load throughout his term of service. Because he bore it as he did, and because he invariably looked to international law as the test of the propriety of conduct, he did not escape the charge of being legalistic. His judicial temperament aroused the impatience of some who would have preferred to see him less conscious of legal restraint and less assertive of what the law yielded. He was aware, however, of the fact that those given to criticizing the decisions of statesmen as legalistic were oftentimes unfamiliar with the principles of law that opposed their designs, or were indisposed to follow a legal argument to the end. He realized also with regret that the more important of the international problems of his country were of a kind on which few of his countrymen not versed in the law or familiar with all of the facts could be qualified to pass reasonable judgment. He had entered the Department of State at a time when

the successful administration of the foreign affairs of the United States and the safeguarding of its interests were in exact proportion to the degree of respect to be paid to, and to be demanded for, the law of nations, and when a failure on the part of a Secretary of State to heed that fact might work havoc for the nation. Consequently he felt that his duty was clear. Whether an appreciable number of his countrymen lacked sympathy with his course he was unable to judge. He stood inflexible in purpose because he was convinced that the interests of the United States left no alternative.

Respect for the rights of the individual state was in his judgment the foundation of international justice, the basis of an enduring peace, and the mainstay of a reasonable diplomacy. Resistance of invasion of those rights by the arbitrary acts of any powers he deemed to be indispensable to the proper development and stability of the society of nations. If he held other states to rigid accountability in this regard, he sought no easier standard for the United States. His four years at the Department of State were guided by this principle. Through his struggle to apply it and to win respect for it by the countries which had opposed each other in the great conflict, Charles Evans Hughes earned the right to be called, as Isaiah put it, "the repairer of the breach, the restorer of paths to dwell in."

APPENDICES

APPENDIX

TO SKETCH OF BRYAN

BIBLIOGRAPHICAL NOTE

The official publication of diplomatic correspondence for the period of Bryan's secretaryship has been completed by the issue, in 1928, of supplements to the volumes of *Foreign Relations* for 1914 and 1915 containing the correspondence relating to the World War, hitherto available only in part as made public at the time. The most important additional source for Bryan's career in general and his personal relation to the events of the period consists in his *Memoirs* by himself and his wife (Philadelphia, 1925), including numerous letters exchanged with President Wilson. The original papers have since been deposited in the Library of Congress. Some light is thrown on discussions within the Administration by David F. Houston's *Eight Years with Wilson's Cabinet* (2 vols., New York, 1926); William C. Redfield's *With Congress and Cabinet* (Garden City, 1924); Josephus Daniels's *The Life of Woodrow Wilson* (Philadelphia, 1924); Joseph P. Tumulty's *Woodrow Wilson as I Know Him* (Garden City, 1921); and by David Lawrence's *The True Story of Woodrow Wilson* (New York, 1924)—the last useful in so far as its statements are capable of being controlled from other sources. Of quite special value with respect to foreign relations are *The Intimate Papers of Colonel House*, "arranged as a narrative" by Charles Seymour (2 vols., Boston, 1926), and *The Life and Letters of Walter Hines Page*, by Burton J. Hendrick (3 vols., Garden City, 1922–1925), although the diplomatic communications printed in the latter are now also available in officially published texts. *Bryan the Great Commoner*, by J. C. Long

(New York, 1928), is a lively sketch based on printed sources.

FOOTNOTES

[1] Lines from Vachel Lindsay's poem "Bryan, Bryan, Bryan, Bryan."

[2] B. J. Hendrick, *The Life and Letters of Walter Hines Page*, I, 194–195, 270–273, 275; III, 93, 96, 102; Charles Seymour, *The Intimate Papers of Colonel House*, I, 240–241, 246.

[3] W. J. and M. B. Bryan, *Memoirs*, 501.

[4] *Ibid.*, 384–386.

[5] *Foreign Relations, 1913*, 8–9.

[6] *Ibid.*, 7.

[7] *Ibid.*, 170–171.

[8] D. F. Houston, *Eight Years with Wilson's Cabinet*, I, 65–66. Bryan went to California to plead the Administration's case personally before the state legislature, ably but unsuccessfully, and he was tirelessly patient with the Japanese Government, as shown by the following incident (*Memoirs*, 366–367):

"Ambassador Chinda called and knotty questions were discussed without any conclusion being reached. The Ambassador arose and said, 'I suppose, Mr. Secretary, this decision is final.' The Secretary advanced, extended his hand, and with his winning smile, said, 'There is nothing final between friends.'"

[9] *Foreign Relations, 1913*, 1053 *et seq.*

[10] *Ibid.*, 430–436; *1915*, 311–313.

[11] *Ibid., 1914*, 371.

[12] Houston, I, 59.

[13] *Foreign Relations, 1913*, 761, 777.

[14] *Memoirs*, 357–361.

[15] *Foreign Relations, 1913*, 809.

[16] *Ibid.*, 820–823.

[17] *Ibid.*, *1914*, 449–476.

[18] J. P. Tumulty, *Woodrow Wilson as I Know Him*, 151–152; Josephus Daniels, *The Life of Woodrow Wilson*, 182; *Foreign Relations, 1914*, 477.

[19] *Foreign Relations, 1914*, 487–589.

[20] *Ibid.*, *1915*, 694–695; Houston, I, 133–135.

[21] Seymour, I, 207–222.

[22] *Ibid.*, I, chapter ix.

[23] *Foreign Relations, 1914, Supplement*, 18–20, 24–25, 29, 37, 42, 48–50, 60–61, 78–79.

[24] *Ibid.*, 216–220.

[25] *Ibid.*, 550.

[26] *Ibid.*, 580.

[27] *Ibid.*, *1915, Supplement*, 820.

[28] Seymour, I, 306–308; *Foreign Relations, 1914, Supplement*, 225–233.

[29] *Ibid.*, 233–258.

[30] *Ibid.*, 289, 299, 303.

[31] *Ibid.*, 356–358.

[32] *Ibid.*, 372–375.

[33] *Ibid.*, *1915, Supplement*, 299–302, 324–334.

[34] A considerable stir was made over the British Government's refusal to grant free passage to the *Dacia*, transferred from the German to the American flag and dispatched with a cargo of cotton for Germany; but before the ship was seized (by the French), the Acting Secretary of State, on February 4, 1915, had assured a private inquirer that "the Department does not perceive in the *Dacia* case any serious complications involving the Government of the United States" (*Foreign Relations, 1915, Supplement*, 319).

[35] *Foreign Relations, 1914, Supplement*, xiv.

[36] *Ibid.*, 361.

[37] *Ibid.*, 3–11.

[38] *Ibid.*, 99.

[39] *Memoirs*, 388–392.

[40] Seymour, II, 61.

[41] *Foreign Relations, 1915, Supplement*, 98–100.

[42] *Ibid.*, 100–101.

[43] *Ibid.*, 119–120.

[44] *Ibid.*, 129–130. The fact that industry in Germany was, as in other countries, mobilized for war purposes meant that privations would fall last on the military forces; the same thing was true of food-supply. Ambassador Gerard reported that the need of raw material was for civilian, not military, manufactures, since adequate supplies, even of copper, were available for the latter (pp. 123, 433).

[45] *Ibid.*, 140–143.

[46] *Ibid.*, 102, 126, 129.

[47] *Ibid.*, 132–133, 152–156. Telegrams of March 5 and March 30.

[48] *Ibid.*, 208–268.

[49] *Memoirs*, 396–397, 420.

[50] *Ibid.*, 398–399.

[51] The Washington *Post*, May 12, 1915; David Lawrence, *The True Story of Woodrow Wilson*, 144.

[52] *Foreign Relations, 1915, Supplement*, 393–396.

[53] *Memoirs*, 399–402; Lawrence, 145–146. Lawrence's account is devoted largely to upholding Wilson's statement in 1916 that "no postscript or amendment of the *Lusitania* note was ever written or contemplated by me," but that a possible "intimation" that a proposal for arbitration might be acceptable was rejected after consideration. The correspondence printed in Bryan's *Memoirs* shows that such an "intimation" — to take the form of a statement from the White House — was not only considered by Wilson, but drafted by him, not by Bryan as Lawrence supposes.

[54] *Memoirs*, 403.

[55] Seymour, I, 405–431, 461.

[56] *Ibid.*, 448, 452; *Foreign Relations, 1915, Supplement*, 400–401, 406, 415.

[57] *Memoirs*, 377–382; *Foreign Relations, 1915, Supplement*, 407–409.

[58] *Ibid.*, 419–421.

[59] Houston, I, 136–138; *Memoirs*, 422.

[60] Houston, I, 139; *Memoirs*, 422–423.

[61] W. C. Redfield, *With Congress and Cabinet*, 102; *Memoirs*, 424, 406–408. Both letters are dated June 8, but Bryan's was probably composed the night before.

APPENDIX

TO SKETCH OF LANSING

BIBLIOGRAPHICAL NOTE

Mr. Lansing's secretaryship falls into three natural divisions: the period of neutrality, 1915 to 1917; the period of participation in the World War, 1917 to 1918; and the period of peace negotiations, 1918 to 1920.

For the period of neutrality the most important official source is the *Diplomatic Correspondence with Belligerent Governments Relating to Neutral Rights and Duties*, published by the Department of State in four volumes (Washington, 1915–1918). Additional and often highly important correspondence with the belligerent governments and with other governments and individuals is now in process of publication in volumes supplementary to *Foreign Relations of the United States* for the years of the World War. As this is written, only the *Supplement* for 1914 has been published, but through the kindness of Dr. Joseph V. Fuller of the Department of State the writer was enabled to consult the material in preparation for the later volumes. These sources are further supplemented by the *Official German Documents Relating to the World War*, published by the Carnegie Endowment for International Peace (2 vols., New York, 1923), and by numerous volumes of unofficial correspondence and memoirs, among which should be mentioned *The Intimate Papers of Colonel House*, edited by Professor Charles Seymour (4 vols., Boston and New York, 1926–1928); *The Life and Letters of Walter H. Page*, edited by Burton J. Hendrick (3 vols., Garden City, 1923–1925); *My Four Years in Germany* (New York, 1918), by the American ambassador in Berlin, James W. Gerard; *My Three*

Years in America (New York, 1920), by Count Bernstorff, the German ambassador to the United States; *Twenty-Five Years* (2 vols., New York, 1925), by Viscount Grey of Fallodon. Legal aspects of the problems of neutrality are discussed, with a strong pro-Ally bias, in *International Law and the World War*, by J. W. Garner (2 vols., London and New York, 1920).

Correspondence of the State Department with the Allied Governments after the entry of the United States into the war will be found in the as yet unpublished *Supplements* to the *Foreign Relations of the United States*, already mentioned. Two publications of the Carnegie Endowment for International Peace are useful here; namely, *Official Statements of War Aims and Peace Proposals, December 1916 to November 1918* (Washington, 1921) and *Preliminary History of the Armistice: Official Documents Published by the German National Chancellery by Order of the Ministry of State* (New York, 1924). T. G. Frothingham, *The American Reinforcement in the World War* (Garden City, 1927) contains material of diplomatic as well as of military significance. Of special value on relations with Russia are *Russian-American Relations, March 1917–March 1920: Documents and Papers* (New York, 1920), edited by C. K. Cumming and W. W. Pettit; and *The Foreign Policies of Soviet Russia* (New York, 1924), by A. L. P. Dennis. Correspondence with the nations of Latin America and the Far East is printed in *Foreign Relations of the United States* for 1915, 1916, and 1917 (Washington, 1924–1926) and in the *Supplements* for those years. Of secondary works, P. A. Martin, *Latin America and the World War* (Baltimore, 1925) is particularly useful.

On the peace negotiations the standard work is as yet *A History of the Peace Conference at Paris*, edited by H. W. V. Temperley (6 vols., London, 1920–1924), which contains much documentary material. Even more valuable for the present sketch was R. S. Baker, *Woodrow Wilson and World*

Settlement (3 vols., Garden City, 1922). Mr. Lansing's own account, *The Peace Negotiations: A Personal Narrative* (Boston and New York, 1921), is indispensable for an understanding of Mr. Lansing's relation to the negotiations. Useful accounts by American participants are printed in *What Really Happened at Paris: The Story of the Peace Conference, 1918–1919, by American Delegates*, edited by E. M. House and C. Seymour (New York, 1921). Two recent works on the League of Nations Covenant are *The Drafting of the Covenant*, by D. H. Miller (2 vols., New York and London, 1928), and *The Origins of the League Covenant*, by Florence Wilson (London, 1928). Testimony before the Senate Committee on Foreign Relations of President Wilson, Secretary Lansing, and others is in *Peace Treaty Hearings* (Senate Document 106, 66 Congress, 1 Sess.).

Some light upon Mr. Lansing's work as Secretary of State is given by D. F. Houston, *Eight Years with Wilson's Cabinet* (2 vols., Garden City, 1926); W. C. Redfield, *With Congress and Cabinet* (Garden City, 1924); A. W. Lane and L. H. Wall, editors, *The Letters of Franklin K. Lane* (Boston and New York, 1922); Joseph P. Tumulty, *Woodrow Wilson as I Know Him* (Garden City, 1921); W. E. Dodd, *Woodrow Wilson and His Work* (Garden City, 1920); Josephus Daniels, *The Life of Woodrow Wilson* (Chicago, 1924).

Finally, some manuscript material that Mr. Lansing put at the writer's disposal was at points highly useful.

A few additional titles, of less general importance, will be cited in the footnotes. Needless to say, the foregoing bibliographical note is far from exhaustive. Historical material on the war years is endless.

NOTE: The writer wishes to express his appreciation of aid rendered shortly before his death by the Honourable Robert Lansing and by his secretary, Mr. R. C. Alexander, of Washington, D. C.; by the Honourable Frank L. Polk of New York City; by Dr. Joseph V. Fuller of the Department of State; by Professor Charles Seymour of Yale University; by Mr.

Barnet Nover of Buffalo, N. Y.; and by the American Council of Learned Societies, which through its Committee on Aid to Research, materially assisted the writer in his endeavours to gather material for this sketch.

FOOTNOTES

[1] For the facts of Mr. Lansing's early career I am indebted to an article in the *American Journal of International Law*, VIII, 336–337, and to a sketch prepared and kindly loaned to me by Mr. R. C. Alexander of Washington, D. C.

[2] *Review of Reviews*, LI, 424–427.

[3] Department of State, *Diplomatic Correspondence with Belligerent Governments*, II, 57–63. The reply to Senator Stone was signed by Bryan. That it "was from beginning to end the work of Robert Lansing" is stated in *World's Work*, XXX, 398–402.

[4] Department of State, *op. cit.*, II, 56–59.

[5] *World's Work*, XXX, 398–402.

[6] Department of State, *op. cit.*, I, 75–77.

[7] *Ibid.*, II, 169–170.

[8] D. F. Houston, *Eight Years with Wilson's Cabinet, 1913–1920*, I, 135–138.

[9] *Ibid.*, I, 141. Is it possible that the President, in thus asking the advice of McAdoo and Houston, designed to quench any ambition either of the two may have had for the position in question?

[10] New York *Times*, June 25, 1915; Buffalo *Evening Times*, June 24, 1915; *Nation*, CI, 7.

[11] *Cf.* Houston, *op. cit.*, I, 149.

[12] See below, p. 89.

[13] Houston, *op. cit.*, I, 147–148.

[14] Department of State, *op. cit.*, II, 171–172.

[15] *Ibid.*, 175–176.

[16] *Ibid.*, 178–179.

[17] *Ibid.*, III, 160.

[18] *Ibid.*, 203.

[19] *Ibid.*, 218.

[20] *Foreign Relations of the United States, Supplement, 1916.* (This work will be cited hereafter as *U. S. F. R., Supp.* As the writer consulted the material in this work for the years 1916 and 1917 while it was in preparation for publication, it is impossible to give page references.)

[21] See below, p. 76.

[22] Burton J. Hendrick, *Life and Letters of Walter H. Page*, II, 53.

[23] *Ibid.*, 67.

[24] Department of State, *op. cit.*, III, 25–38.

[25] Hendrick, *op. cit.*, II, 78.

[26] *Ibid.*, 72, 74.

[27] Charles Seymour, *The Intimate Papers of Colonel House*, II, 70.

[28] For a few specimens of the vast numbers of complaints received by the Department of State arising out of Allied interference with trade in copper, oil, cotton, tobacco, etc., in the first few months of the war, see *U. S. F. R., Supp., 1914*, 270–304.

[29] Seymour, *op. cit.*, II, 71.

[30] Quoted by J. B. Scott, in *Review of Reviews*, LI, 424–427.

[31] Department of State, *op. cit.*, III, 64–82, April 24, 1916.

[32] J. W. Pratt, "The British Blockade and American Precedent," *U. S. Naval Institute Proceedings*, XLVI, 1789–1802.

[33] See below, p. 101.

[34] J. W. Garner, *International Law and the World War*, II, 294, note 3.

[35] For British practice of issuing "letters of assurance" for approved shipments see *U. S. F. R., Supp., 1916.*

[36] Seymour, *op. cit.*, II, 84.

[37] The story of this episode is told in detail by Seymour,

op. cit., II, chaps. iv–ix. *Cf.* Viscount Grey of Fallodon, *Twenty-five Years*, II, 134–137.

[38] Seymour, *op. cit.*, II, 170, note.

[39] *Ibid.*, II, 184.

[40] *Ibid.*, II, 202. Mr. Burton J. Hendrick (*op. cit.*, III, 289–290) makes much of the fact that President Wilson, in agreeing to the draft of the plan prepared by House and Grey, inserted the word "probably" in the clause committing the United States to the course proposed, making it read: "If it [the proposed peace conference] failed to secure peace, the United States would *probably* leave the Conference as a belligerent on the side of the Allies, if Germany was unreasonable." Mr. Hendrick assumes that this insertion of a word proves Wilson's unwillingness to make any definite promise of intervention. It is more reasonable to suppose that the change was merely a recognition of the President's inability, under the Constitution, to declare war, and hence to promise more than the use of his influence towards such an end. That this was the real doubt in the President's mind is indicated by the language of House's letter to Grey of March 10, 1916.

"After explaining to the President all that occurred at our conference," House wrote, "he wrote the cable I sent you on March eighth. I added nothing, for it was a complete approval of what had been done.

"If the situation continues as now, and if Congress does not restrict him, everything will go through as planned. His recent victory in Congress [the defeat of the McLemore resolution] was complete and indicates that the matter is entirely in his hands." Seymour, *op. cit.*, II, 220.

[41] Seymour, *op. cit.*, II, 73.

[42] Department of State, *op. cit.*, III, 162–164.

[43] *Ibid.*, 166–169.

[44] Bernstorff to Lansing, February 28, 1916, *U. S. F. R., Supp., 1916.*

[45] On March 3, 1916 Gerard had cabled Lansing that a

council at Charleville was deciding between von Tirpitz, who desired to torpedo all ships within the war zone, and the Chancellor and Foreign Office, who opposed this plan, the decision lying with the Emperor. Four days later he was informed on fair authority that von Tirpitz's plan was rejected. *Ibid.* This result was subsequently confirmed.

[46] Seymour, *op. cit.*, II, 230.

[47] Department of State, *op. cit.*, III, 241–245.

[48] *Ibid.*, 302–306.

[49] Seymour, *op. cit.*, II, 242–244.

[50] *Ibid.*, 245; Department of State, *op. cit.*, III, 306–307.

[51] E. E. Robinson and V. J. West, *The Foreign Policy of Woodrow Wilson, 1913–1917* (New York, 1917), 325–329.

[52] Seymour, *op. cit.*, II, 304.

[53] *Ibid.*, 311. House's opinion.

[54] Department of State, *op. cit.*, III, 151–156, IV, 75–77. Seymour, *op. cit.*, II, 307–310.

[55] Department of State, *op. cit.*, IV, 85–87.

[56] Hendrick, *op. cit.*, II, 184.

[57] *Ibid.*, 185.

[58] Seymour, *op. cit.*, II, 316.

[59] *Ibid.*, 335–336.

[60] Carnegie Endowment for International Peace, *Official German Documents Relating to the World War*, II, 995–998. (This work will be cited hereafter as *Off. Ger. Doc.*)

[61] Department of State, *op. cit.*, IV, 305-309.

[62] *Ibid.*, 309–311.

[63] Seymour, *op. cit.*, II, 400–402.

[64] Department of State, *op. cit.*, IV, 311–313.

[65] *Ibid.*, 321–323.

[66] *Off. Ger. Doc.*, II, 1017.

[67] Lansing to diplomatic representatives in belligerent countries, December 21, 1916, *U. S. F. R., Supp., 1916.*

[68] Department of State, *op. cit.*, IV, 327.

[69] *Ibid.*, 336–339.

[70] Seymour, *op. cit.*, II, 427. With its enlarged fleet of submarines, of longer cruising radius and heavier armament, the German Navy promised to bring England to her knees in six months.

[71] *Off. Ger. Doc.*, II, 1047–1048.

[72] *Ibid.*, 1048–1050. Bethmann-Hollweg's outline of the conditions upon which Germany would have been willing to make peace indicates that Germany was at this time no less intransigent than the Allies. The terms included: surrender to Germany of the part of Alsace occupied by France; boundary adjustments to protect Germany and Poland against Russia, politically and economically; restitution of German colonies in the form of an understanding that would assure to Germany such colonial possessions as are adapted to her population and the importance of her economic interests; restoration to France of territory occupied by Germany, but under reservations concerning the establishment of strategic and economic boundaries and financial compensation; restoration of Belgium, but with proper guaranties of German safety in future; economic and financial adjustment on the basis of territory conquered by both sides; indemnification of German private interests for losses sustained by reason of the war; renunciation of agreements interfering with normal trade; freedom of the seas; participation in Wilson's post-war conference. *Ibid.*, 1049.

[73] Department of State, *op. cit.*, IV, 403–407.

[74] *Ibid.*, 407–409.

[75] Seymour, *op. cit.*, II, 471.

[76] *Ibid.*, 460, 462, 467, 468.

[77] Department of State, *op. cit.*, IV, 421–432.

[78] Lansing MSS.

[79] Robinson and West, *op. cit.*, 388–390.

[80] Lansing to W. H. Page, February 8, 1917; W. H. Page to Lansing, February 11, 20, 1917; Lansing to Penfield, February 22, 1917; Penfield to Lansing, February 27, 1917; *U. S. F. R., Supp., 1917.*

[81] T. N. Page to Lansing, October 27, November 1, 10, 1917, *Ibid.*

[82] Lansing to T. N. Page, November 15, 1917, *Ibid.*

[83] Lansing MSS.

[84] Brief accounts of these missions are found in New York *Times Current History* for 1917 and 1918.

[85] *Current History*, VI, Pt. II, 60–61.

[86] Hendrick, *op. cit.*, II, 265. The United States did not participate directly in the blockade, but accomplished the same end by refusing to allow exports to the northern neutrals except upon ample assurance that such exports should not directly or indirectly aid Germany. This practice was unquestionably within our rights. In this way we were able to co-operate effectively in the starvation of Germany without doing anything that would compromise our claims against Great Britain on the ground of alleged illegalities in the British methods of blockade.

[87] Garner, *op. cit.*, I, 234.

[88] *Current History*, VII, Pt. II, 497–500.

[89] *Ibid.*, Pt. I, 437–438.

[90] MSS., Department of State. *Cf.* Seymour, *op. cit.*, III, chaps. ix, x.

[91] *Current History*, VII, Pt. I, 434–436.

[92] MSS., Department of State.

[93] *Current History*, VII, Pt. I, 438; Seymour, *op. cit.*, III, chap. viii.

[94] T. G. Frothingham, *The American Reinforcement in the World War*, 244–245, 251–257.

[95] *Ibid.*, 182 ff., 271 ff. See also General Henry J. Reilly, "It's Time You Knew the Truth," in *Cosmopolitan*, February 1928.

[96] *Peace Treaty Hearings*, 518. Seymour, *op. cit.*, III, 42–51, 61–63. *Cf.* also Hendrick, *op. cit.*, II, 267. It seems probable that the slight attention which Wilson paid to the subject of the secret treaties was due to a belief on his part

that when the peace settlement should come, he and the United States would be so completely in control of the situation that any prior agreements which conflicted with his ideals of a righteous peace would have to give way.

[97] R. S. Baker, *Woodrow Wilson and World Settlement*, I, 34, note.

[98] *U. S. F. R., Supp., 1917.*

[99] *Peace Treaty Hearings*, 220, 221. Elsewhere in his testimony Mr. Lansing indicated that the Department of State had paid very little attention to the subject of these treaties. *Ibid.*, 190–191. His first day's testimony before the committee betrayed almost complete ignorance of the secret treaties. In his testimony on the second day, when he had had time to refresh his memory from the Department's records, he stated the facts as here given.

[100] C. K. Cumming and W. W. Pettit (editors), *Russian-American Relations*, 6; Sir George Buchanan, *My Mission to Russia and Other Diplomatic Memories* (2 vols., Boston, 1923), II, 91.

[101] Cumming and Pettit, *op. cit.*, 19.

[102] *Ibid.*, 23–25, 27–28.

[103] *Ibid.*, 67, 74.

[104] *Ibid.*, 81.

[105] *Ibid.*, 77.

[106] *Ibid.*, 87.

[107] A. L. P. Dennis, *The Foreign Policies of Soviet Russia*, 463.

[108] Cumming and Pettit, *op. cit.*, 95.

[109] *Ibid.*, 222.

[110] Dennis, *op. cit.*, 57–65. It was only under persistent pressure from the Allies that the United States consented to these expeditions. Seymour, *op. cit.*, III, chap. xiii.

[111] Cumming and Pettit, *op. cit.*, 237–239.

[112] Dennis, *op. cit.*, 288.

[113] *Ibid.*, 58.

[114] Carnegie Endowment for International Peace, *Official Statements of War Aims and Peace Proposals, December 1916 to November 1918*, 379. (This work will be cited hereafter as *War Aims and Peace Proposals.*)

[115] *Ibid.*, 456.

[116] Seymour, *op. cit.*, I, 233–234.

[117] *Ibid.*, chap. viii.

[118] H. I. Priestley, *The Mexican Nation, a History* (New York, 1923), chaps. xxvi, xxvii.

[119] *Foreign Relations of the United States, 1916*, 849–852. (This work will be cited hereafter as *U. S. F. R.*)

[120] G. H. Stuart, *Latin America and the United States* (New York, 1922), 277.

[121] *Ibid.*, 275–277; *U. S. F. R., 1916*, 811-812, 814–817, 818, 831–832, 862–886.

[122] Senate Report No. 794, 67 Cong., 2 Sess., Appendix B, 31–37.

[123] *U. S. F. R., 1915*, 466.

[124] *Ibid., 1916*, 328–332.

[125] *Ibid., 1915*, 321–325.

[126] *Ibid.*, 333–339.

[127] *Ibid., 1916*, 225–227.

[128] *Ibid.*, 231–232.

[129] *Ibid.*, 235.

[130] *Ibid.*, 241.

[131] *Ibid.*, 242.

[132] *Ibid., 1917*, 706. M. F. Egan, *Ten Years Near the German Frontier* (N. Y., 1919), 273–287.

[133] P. A. Martin, *Latin America and the War, passim;* J. H. Latané, *A History of American Foreign Policy* (Garden City, 1927), 674–678; Lansing to United States ambassador at Buenos Aires, December 6, 1917, *U. S. F. R., Supp., 1917.*

[134] Fletcher to Lansing, March 10, 1917, *U. S. F. R., Supp., 1917.*

[135] Martin, *op. cit.*, chap. x.

[136] Wheeler to Lansing, June 27, 1917, *U. S. F. R., Supp., 1917.*

[137] H. W. V. Temperley (ed.), *A History of the Peace Conference of Paris*, VI, 635–636.

[138] *U. S. F. R., Supp., 1917.*

[139] *Ibid.* The United States desired to delay China's entry into the war for another reason. China as a neutral could properly buy certain destroyers from Argentina, which, if China later entered the war, could then be put at the service of the Allies.

[140] Reinsch to Lansing, March 12; Lansing to Reinsch, March 13, 1917; *Ibid.*

[141] Reinsch to Lansing, April 27, 1917, *Ibid.*

[142] *U. S. F. R., 1917*, 48.

[143] *Ibid.*, 49.

[144] *Ibid.*, 48.

[145] Henry Chung, *The Oriental Policy of the United States* (New York, 1919), 79.

[146] *U. S. F. R., 1917*, 58.

[147] *Ibid.*, 68–71.

[148] *Ibid.*, 61–62.

[149] *Ibid.*, 72.

[150] *Ibid.*, 71–72.

[151] *Ibid.*, 259. This paper, after being read to Mr. Lansing, was left at the State Department. Mr. Lansing made on it the notation that it was read as an oral communication and was not to be considered a document.

[152] *Ibid.*, 73. For Reinsch's alarm at this report see *Ibid.*, 77.

[153] *Ibid.*, 260–262.

[154] What Secretary Bryan had actually said was as follows: "While on principle and under the treaties of 1844, 1858, 1868 and 1903 with China the United States has ground upon which to base objections to the Japanese 'demands' relative to Shantung, South Manchuria, and East Mongolia, nevertheless the United States frankly recognizes that territorial

contiguity creates special relations between Japan and these districts." *Ibid., 1915*, 108.

[155] Reinsch to Lansing, August 3, 14, 1917, *U. S. F. R., Supp., 1917.*

[156] *Ibid.*

[157] Reinsch to Lansing, September 27, 1917, *Ibid.*

[158] Reinsch to Lansing, September 28, 1917, *Ibid.*

[159] For information in regard to these conferences I am indebted to the kindness of Mr. Lansing, who placed the record of them at my disposal. Much of this information was also given by Mr. Lansing in his testimony before the Senate Committee on Foreign Relations, August 11, 1919. *Peace Treaty Hearings*, 215–233.

[160] Temperley, *op. cit.*, VI, 634–636.

[161] *Peace Treaty Hearings*, 218, 219.

[162] *U. S. F. R., 1917*, 264.

[163] *Ibid.*, 266–267.

[164] W. E. Dodd, *Woodrow Wilson and His Work*, 244. *Cf.* also T. F. Millard, *Democracy and the Eastern Question* (New York, 1919), 69 ff. and 109. Mr. Millard remarks: "It is interesting to note how the Japanese Government, when it had occasion to procure some commitment in its favor from one of the Allies or co-belligerents, almost invariably would throw out an intimation of how Japan might get what she wanted from Germany."

[165] *U. S. F. R., Supp., 1917.*

[166] *Ibid.*

[167] *Ibid.*

[168] Henry Morgenthau, *All in a Life-Time* (Garden City, 1922), 255.

[169] *U. S. F. R., Supp., 1917.*

[170] *Ibid.*, July 8, 1917.

[171] Carnegie Endowment for International Peace, *Preliminary History of the Armistice* (hereafter cited as *Preliminary History*), 5.

[172] *Ibid.*, 17–19.

[173] *War Aims and Peace Proposals*, 386–389.

[174] *Ibid.*, 396.

[175] *Preliminary History*, 40.

[176] *War Aims and Peace Proposals*, 415, 417–418.

[177] *Ibid.*, 234–239, 349–352, 399–405.

[178] Lansing MSS., May 30, 1918.

[179] *Ibid.*, October 7, 1918.

[180] *War Aims and Peace Proposals*, 418–419, 421–423, 434–436. On the preparation of the reply see Seymour, *op. cit.*, IV, 76–80.

[181] *Ibid.*, 428–429.

[182] *Preliminary History*, 115, 133–134.

[183] *War Aims and Peace Proposals*, 467.

[184] *Ibid.*, 456–457. Seymour, *op. cit.*, IV, 165–174.

[185] *War Aims and Peace Proposals*, 477–488.

[186] *Ibid.*, 446–455.

[187] Robert Lansing, *The Peace Negotiations*, 15.

[188] Seymour, *op. cit.*, I, 374.

[189] *Ibid.*, II, 180.

[190] Page to Lansing, February 11, 1917, *U. S. F. R., Supp., 1917*.

[191] Dodd, *op. cit.*, 282–283. *Cf.* Seymour, *op. cit.*, IV, 210–231.

[192] Lansing, *op. cit.*, 22.

[193] *Ibid.*, 23–24.

[194] Temperley, *op. cit.*, I, 247.

[195] E. M. House and C. Seymour (editors), *What Really Happened At Paris*, 17.

[196] Lansing, *op. cit.*, 219.

[197] Baker, *op. cit.*, I, 183.

[198] Temperley, *op. cit.*, I, 247.

[199] House and Seymour, *op. cit.*, 17.

[200] Temperley, *op. cit.*, I, 249.

[201] Lansing MSS., January 22, 1919.

[202] Baker, *op. cit.*, I, chap. xi; III, 55–63.

[203] Lansing, *Peace Negotiations*, 190–191.

[204] Baker, *op. cit.*, I, 112.

[205] *Ibid.*, 196–201. The subject of a "program" for the Peace Conference had been on Colonel House's mind since April 1915. In that month he told Sir Edward Grey that he planned to have all the material for the conference prepared and digested beforehand, the delegates from the neutral states and as many belligerent states as possible lined up for a common plan of world peace. "I explained," he noted, "my methods of organization in political conventions in the past; that while they were seemingly spontaneous, as a matter of fact nothing was left to chance. While measures were apparently drawn by different delegations, in the end it was found they fitted into the platform like a mosaic." That the Peace Conference fell short of the harmony and perfection of design which the Colonel had introduced into Texas Democratic conventions is ascribed by the editor of House's papers to the attack of influenza from which House suffered just as the conference was opening. Seymour, *op. cit.*, I, 427 and note.

[206] Lansing, *op. cit.*, 200.

[207] Clive Day in House and Seymour, *op. cit.*, 25–30.

[208] Baker, *op. cit.*, I, 214.

[209] Lansing, *op. cit.*, 209–210.

[210] Polk to Jusserand, August 3, 1917, *U. S. F. R., Supp., 1917.*

[211] Baker, *op. cit.*, I, chap. xiii.

[212] Lansing, *op. cit.*, 38–46. Wilson's failure to consult Lansing in regard to the league was perhaps due to the cool attitude Lansing had displayed towards that project. Thus in April 1918 he had declined House's invitation to a dinner with Taft, Lowell, and Root to discuss plans for the league, declaring his belief that unless autocracy was crushed a League of Nations would be useless, while if democracy became uni-

versal a league, would be unnecessary. Seymour, *op. cit.*, IV, 12–15.

[213] Lansing, *op. cit.*, 53–54.

[214] *Ibid.*, 48–76.

[215] Baker, *op. cit.*, I, 228.

[216] Lansing, *op. cit.*, 87.

[217] *Ibid.*, 122–124.

[218] *Ibid.*, 151–153.

[219] Baker, *op. cit.*, I, chap. xvii.

[220] Seymour, *op. cit.*, IV, 363–376.

[221] *Ibid.*, IV, 386.

[222] House and Seymour, *op. cit.*, 32.

[223] *Ibid.*, 33.

[224] *Peace Treaty Hearings*, 316–376.

[225] *Ibid.*, 360–376.

[226] *Ibid.*, 362.

[227] H. E. Barnes, *Genesis of the World War* (N. Y., 1926), 187–190. See also New York *Times*, November 22, 1925, Pt. II, 3.

[228] Lansing, *op. cit.*, 220.

[229] Lansing MSS., May 5, 1919.

[230] *Ibid.*, February 20, March 13, June 5, 1919.

[231] Lansing, *Peace Negotiations*, 261. It should be noted that at the time this claim was made, Italy had temporarily withdrawn from the conference because of its failure to recognize her claim to Fiume. This fact gave added weight to Japan's threat.

[232] *Ibid.*, 262.

[233] *Peace Treaty Hearings*, 182. Japan gave an oral promise to restore sovereignty in Shantung to China. This she fulfilled after the Washington Conference of 1921–1922.

[234] Lansing, *op. cit.*, 180.

[235] *Ibid.*, 185.

[236] Baker, *op. cit.*, I, 389, 411–416.

[237] Lansing, *op. cit.*, 187.

[238] New York *Times*, July 15, 1919.

[239] *Peace Treaty Hearings*, 139–252.

[240] *Ibid.*, 1276–1277; Lansing, *op. cit.*, 269.

[241] *Ibid.*, 270–271. Bullitt stated his side of the case in a letter published in New York *Times*, March 26, 1921.

[242] Joseph P. Tumulty, *Woodrow Wilson as I Know Him*, 442.

[243] New York *Times*, August 2, 14, 1919.

[244] *Ibid.*, November 21, December 2, 5, 6, 1919.

[245] *Ibid.*, January 5, February 10, 1920; Lansing MSS., October 9, 1919.

[246] In telling this portion of the story I have followed Mr. Lansing's own account, as printed in *The Life of Woodrow Wilson*, by Josephus Daniels, 150–151, which I believe to be correct. For different versions the reader is referred to Tumulty, *op. cit.*, 443–445; Houston, *op. cit.*, II, 37–39. See also a letter from former Secretary Redfield in New York *Times*, December 6, 1921, which, so far as it goes, confirms Mr. Lansing's account.

[247] Houston, *op. cit.*, II, 64.

[248] New York *Times*, February 14, 1920.

[249] *Cf.* New York *Times*, February 14, 1920, p. 2; February 15, 1920, pp. 1, 2; *Literary Digest*, February 28, 1920, pp. 13–15.

[250] Houston, *op. cit.*, II, 182; *The Mirrors of Washington* (New York and London, 1921), 221 ff.; New York *Times*, February 14, 1920, p. 2.

[251] Baltimore *Sun*, quoted in New York *Times*, February 14, 1920. *Cf.* also the opinion of Franklin K. Lane (A. W. Lane and L. H. Wall, editors, *The Letters of Franklin K. Lane*, 463): "What comfort you would have given the enemy if you had resigned! Have they thought of that?"

[252] Seymour, *op. cit.*, III, 21–22.

APPENDIX

TO SKETCH OF COLBY

BIBLIOGRAPHICAL NOTE

The writer has drawn the particulars relating to the earlier years of Secretary Colby's life from the article appearing in the *National Cyclopedia of American Biography* (1924). See also New York *Times*, February 29, 1920; the *Forum* (New York), October 1923.

FOOTNOTES

[1] Robert Lansing, *The Peace Negotiations, a Personal Narrative* (New York, 1921), 3.

[2] *Ibid.*, 6–7.

[3] David F. Houston, *Eight Years with Wilson* (New York, 1926).

[4] *The Stolen Nomination*, issued by the Progressive National Committee.

[5] New York *Evening World*, June 10, 1916.

[6] Chicago *Examiner*, June 27, 1916.

[7] See, e.g., Brooklyn *Citizen*, July 13, 1916; New York *World*, July 19, 1916; Washington *Star*, July 23, 1916; New York *Herald*, July 23, 1916.

[8] New York *Herald*, July 1, 1916; New York *World*, same date.

[9] Washington *Evening Star*, August 4, 1916.

[10] Brooklyn *Daily Times*, June 13, 1916.

[11] See James Kerney, *The Political Education of Woodrow Wilson* (New York, 1926), 374, 435–436.

[12] *Current History Magazine* (New York), July 1925.

[13] J. A. Salter, *Allied Shipping Control* (Oxford, 1921), 108.

[14] Arthur Wallace Dunn, *From Harrison to Harding* (New York, 1922), 391.

[15] *Ibid.*

[16] See, e.g., Paul Miliukov, *Russia Today and Tomorrow*, 304. The full text of this note has not been published, so far as the writer knows. It was sent during the latter part of July 1920. The State Department did not give the note out for publication. The agitation against the Japanese in California, and the tension of feeling in Japan, led the State Department to adopt the course of leaving the matter of publication to the Japanese Government. There are dispatches from Tokyo with reference to the note in the New York *Times*, July 29, 30, 31, August 1, 4, 8, 15, 18, 1920.

[17] The full text of the note is given in the New York *Times*, August 11, 1920, and the London *Times*, August 13, 1920.

[18] See report of debate in House of Commons in New York *Times*, June 26, 1926.

[19] See, e.g., Hearings Before the Senate Committee on Foreign Relations, U. S. Senate, 1919, Sen. Doc. 106, p. 1240; E. J. Dillon, *The Inside Story of the Peace Conference* (New York, 1920), 355–360.

[20] November 25, 1920.

[21] On August 16, 1920, Senator Harding, Republican candidate for the Presidency, in a formal statement given to the newspaper correspondents attached to his campaign headquarters at Marion, Ohio: "There will be none of the present foreign policy if we succeed. On the contrary, there will be a complete reversal." And again: "I think the Republican Party expects a Republican Administration to make a very sweeping change in the foreign policies of the nation" (New York *Times*, August 17, 1920). Under the caption "Senator Harding's Loose Talk" the same paper editorially, in its issue of August 18, 1920, declared the statement to be "an indiscretion

more 'blazing' than any of Lord Salisbury's." It added: "No Presidential candidate ever said anything so startling — if it is serious." A careful reading of Harding's complete statement leaves no room for doubt that he had the Russian note, issued a few days earlier, especially in mind, when he avowed his policy of complete reversal.

[22] The note is printed in full in *British and Foreign State Papers* (London), CXIV, 404.

[23] State Papers, Department of State, February 21, 1921.

[24] Mr. Louis Seibold, in the New York *World*, under date of January 30, 1921, said: "That the visit of Secretary Colby to the South American capitals was an unmistakable success, stands out very clearly.... The seeds of cordial amity which were sown broadcast in the course of this memorable mission must inevitably produce a fine harvest in the form of quickened intercourse and deepened mutual confidence between ourselves and those fine peoples to the south."

Mr. William H. Crawford, in the New York *Times*, issue of January 28, 1921, said: "Few Americans appreciate the possibilities or the importance of the Colby mission to South America.... The impression that he created in each country visited was one of which the country should be proud. It was distinct. It was strong. It was undeniably favorable, and I am convinced that his visit will greatly contribute through the years to come, to a truer understanding and a closer relationship between the United States and the South American republics."

EDITOR'S NOTE: Secretary Colby, accompanied by Major-General Adelbert Cronkhite, U. S. Army; Rear-Admiral Frederick B. Bassett, U. S. Navy; and Colonel William Kelly, Jr., U. S. Army, left Washington on the U. S. S. *Mayflower*, December 3, 1920. The mission boarded the U. S. S. *Florida* at Hampton Roads the following day and sailed for South America, returning January 27, 1921. Mr. William H. Crawford and Mr. Louis Seibold, as correspondents respectively of

the New York *Times* and the New York *World*, travelled with the mission.

[25] David Y. Thomas, *One Hundred Years of the Monroe Doctrine* (New York, 1923), 391.

[26] The speech is printed in full in the New York *Times*, December 30, 1920.

APPENDIX

TO SKETCH OF HUGHES

BIBLIOGRAPHICAL NOTE

The footnotes that follow indicate the nature and content of the available bibliography in relation to the subject of this sketch. The relevant documents thus far made public have not yet appeared in a volume pertaining to the foreign relations of the United States. Some have taken the form of official statements given to the press by the Department of State. Others have been incorporated in congressional documents. In some instances the author has relied upon documents not made public and to which no reference can be given.

The numerous addresses of Secretary Hughes have been given publicity through the press. The more important ones are contained in a volume entitled: *The Pathway of Peace—Representative Addresses delivered during his term as Secretary of State (1921–1925)*, by Charles E. Hughes (New York, Harper & Brothers, 1925). An exhaustive and illuminating statement on the foreign relations of the United States, prepared by him under date of July 1, 1924, was issued by the Republican National Committee in that year.

The author, as the solicitor for the Department of State for something more than the two final years of Mr. Hughes's sojourn at the Department of State, was in daily contact with him and has since been in conference with him in the course of the preparation of the present sketch. For many statements of fact revealing the reasons why he did what he did the former Secretary of State has himself been good enough to enable the author to write the text as it stands. The author is, however, himself responsible for the estimate of character and of the quality of the work done.

FOOTNOTES

[1] *Congressional Record*, LVIII, 8786; 8802; 8803.

[2] *Congressional Record*, LIX, 4599. See "The Attitude of the United States Senate towards the Versailles Treaty: 1918–20," by Dr. H. B. Learned, in Temperley's *History of the Peace Conference of Paris*, VI, 391.

[3] These understandings, which were made a part of the so-called resolution of ratification, were "that the United States shall not be represented or participate in any body, agency or commission, nor shall any person represent the United States as a member of any body, agency or commission in which the United States is authorized to participate by this Treaty, unless and until an Act of the Congress of the United States shall provide for such representation or participation," and also "that the rights and advantages which the United States is entitled to have and enjoy under this Treaty embrace the rights and advantages of nationals of the United States specified in the Joint Resolution or in the provisions of the Treaty of Versailles to which this Treaty refers."

For texts of treaties restoring friendly relations with Austria, Aug. 24, 1921, and Hungary, Aug. 29, 1921, see U. S. Treaty Vol. III, 2493 and 2692, respectively.

[4] The service was held at the Church of the Covenant, Washington, on Sunday, January 28, 1923.

[5] The reception was given by Dr. Hernan Velarde, the Peruvian ambassador, at the building of the Pan American Union, on the evening of December 9, 1924.

[6] Mr. Colby, Secretary of State, to Earl Curzon, November 20, 1920, enclosed in communication from Mr. Davis, American ambassador at London, to Earl Curzon, December 6, 1920. For the texts of the documents embraced in the correspondence between the United States and Great Britain, May 12, 1920 to February 21, 1921, respecting "Economic Rights in Mandated Territories," see *British Foreign Office Publication, Misc.*, No. 10 (London, 1921).

[7] Secretary Colby's discussion with Great Britain had dealt in particular with the so-called "Class A Mandates."

[8] See, in this connexion, communication from Mr. Colby, Secretary of State, to the president and members of the Council of the League of Nations, February 21, 1921 (Minutes of Council of League of Nations, Twelfth Session, Annex 154b), in the final paragraph of which he said: "As one of the Principal Allied and Associated Powers, the United States has an equal concern and an inseparable interest with the other Principal Allied and Associated Powers in the overseas possessions of Germany and concededly an equal voice in their disposition, which it is respectfully submitted cannot be undertaken or effected without its assent." See also S. F. Bemis, "Yap Island Controversy," *Pacific Review*, II, 308–328 (September 1921).

[9] See, for example, the mandate for the German possessions in the Pacific Ocean lying north of the Equator, of December 17, 1920, *American Journal of International Law*, XVII, 160.

[10] The views of Mr. Hughes on the rights of the United States were partly set forth in notes addressed to the four Principal Allied powers, April 2, 1921. They were also developed in personal conferences with representatives of those powers and in numerous instructions to American missions, and particularly in communications during February, 1924, to the American embassy at London.

[11] That Germany acquired by the Treaty of Versailles a right to demand that the mandatory system as contemplated by Article XXII thereof be applied to former possessions did not change the character of its grant as an executed one. In so far as Germany was concerned, it was not executory, simply for the reason that no further act on the part of Germany was needed in order to perfect the transfer of sovereignty after the treaty went into effect.

[12] This treaty was signed at Washington, February 11, 1922. See *United States Treaties*, III, 2723.

[13] See treaty between the United States and France relating to rights in the Cameroons, February 13, 1923, *Treaty Series*, No. 690; treaty between the United States and France relating to rights in Togoland, February 13, 1923, *Treaty Series*, No. 691; treaty and protocol between the United States and Belgium relating to rights in East Africa, April 18, 1923 and January 21, 1924 respectively, *Treaty Series*, No. 704; also convention between the United States and France relating to rights in Syria and the Lebanon, April 4, 1924, *Treaty Series*, No. 695.

Because of American participation in the World War, contributing to the success of the Allied powers as belligerents in causing the downfall of Turkey, an ally of Germany, the United States, as has been observed, asserted as against those powers a claim to equal treatment in the mandated territories formerly under Turkish rule. It is important to note that this claim was preferred by the United States not against Turkey, but against its enemies with which the United States was aligned in the general conflict. To the United States the method by which the sovereignty was transferred from the Ottoman possessor was of slight concern. The significant fact, from an American point of view, was not only that some time before the conclusion of any treaty of peace Turkey had been ousted from actual control, but also that its victorious enemies had decided that there must be a new sovereign. The treaty of peace concluded between the Allied powers and Turkey at Lausanne, July 24, 1923, declared that Turkey renounced all rights and title whatsoever over territories situated outside of the frontiers laid down in the treaty and "the islands other than those over which her sovereignty is recognized by the said treaty, the future of these territories and islands being settled or to be settled by the parties concerned."

The United States, having long exercised rights of extraterritorial jurisdiction in the areas concerned accruing from or

recognized by its treaty with Turkey of 1830, felt that these rights remained unimpaired while Turkey retained the sovereignty, and that they would survive a change of sovereignty until by treaty the United States formally relinquished them. Consequently it was contended that American consent manifested through an appropriate treaty was essential for the valid operation of any mandate which purported to terminate the system of consular jurisdiction.

It could not, however, be fairly claimed, and it was not asserted, that the treaty of peace between Turkey and its enemies served to lodge any vested right in the United States, as by an executed grant in its favour, or that there was any transfer of sovereignty to itself such as that which Germany had wrought through the Treaty of Versailles in the case of its overseas possessions. Accordingly the United States invoked the Treaty of Peace of Lausanne merely in token of the circumstance that it marked Turkish acquiescence in the fact that the old sovereignty had been superseded.

[14] *Conference on the Limitation of Armament, Report of the American Delegation to the President*, February 9, 1922, Sen. Doc. 126, 67 Cong., 2 Sess., p. 821.

[15] *Ibid.*, 821–822. See also address of Mr. Balfour at the fourth plenary session of the Conference, December 10, 1921, *Ibid.*, 109–110.

[16] Conference of Prime Ministers and Representatives of the United Kingdom, the Dominions, and India, held in June, July, and August 1921, *Summary of Proceedings and Documents*, Cmd. 1474, 19–20, 24–25.

[17] S. J. Resolution 225, 66 Cong., 3 Sess.; *Cong. Record*, LX, Part 1, 310.

[18] 42 *U. S. Stat.*, 141.

[19] Belgium and the Netherlands were also subsequently invited to participate with respect to matters affecting them. They did so.

[20] Statement of July 1, 1924.

[21] Mark Sullivan, *The Great Adventure at Washington* (New York, 1922).

[22] Sen. Doc. 126, 67 Cong., 2 Sess., p. 46.

[23] Declared Mr. Balfour, chief of the British delegation, at the second plenary session of the Conference, on November 15, 1921:

"I count myself among the fortunate of the earth in that I was present, and to that extent had a share in the proceedings of last Saturday. They were memorable indeed. The secret was admirably kept! I hope that all the secrets, so long as they ought to be secret, of our discussions will be as well kept. In my less sanguine mood I have my doubts. But, however that may be, the secret in this case was most admirably kept, and I listened to a speech which I thought eloquent, appropriate, in every way a fitting prelude to the work of the Conference which was about to open or which indeed had been opened by the President, without supposing that anything very dramatic lay behind. And suddenly I became aware, as I suppose all present became aware, that they were assisting not merely at an eloquent and admirable speech, but at a great historical event. It was led up to with such art, the transition seemed so natural, that when the blow fell, when the speaker uttered the memorable words which have now gone round and found an echo in every quarter of the civilized world, it came as a shock of profound surprise; it excited the sort of emotions we have when some wholly new event suddenly springs into view, and we felt that a new chapter in the history of world reconstruction had been worthily opened. . . .

"What makes this scheme a landmark is that combined with the profession is the practice, that in addition to the expression, the eloquent expression of good intentions, in which the speeches of men of all nations have been rich, a way has been found in which, in the most striking fashion, in a manner

which must touch the imagination of everybody, which must come home to the dullest brain and the hardest heart, the Government of the United States have shown their intention not merely to say that peace is a very good thing, that war is horrible, but that there is a way by which wars can really be diminished, by which the burdens of peace, almost as intolerable as the burdens of war, can really be lightened for the populations of the world. And in doing that, in doing it in the manner in which they have done it, in striking the imagination not merely of the audience they were addressing, not merely of the great people to whom they belonged, but of the whole civilized world, in doing that they have, believe me, made the first and opening day of this Congress one of the landmarks in human civilization." *Ibid.*, 65–66, 69–70.

[24] Declared Secretary Hughes, in a statement of July 1, 1924: "General considerations of national need, aspirations and expectations, policy and program, could be brought forward by each Power in justification of some hypothetical relation of naval strength with no result but profitless and interminable discussions. The solution was to take what the Powers actually had, as it was manifest that none could better its relative position unless it won in the race which it was the object of the Conference to end. The treaty as finally concluded embodied the main principles set forth in the American proposal."

[25] *United States Treaties*, III, 3100.

[26] The treaty did, however, limit the total tonnage and armament of aircraft carriers, and limited the size of other auxiliary craft to 10,000 tons each, and the armament thereof to eight-inch guns.

[27] By Article XIX the United States, Great Britain, and Japan agreed that the *status quo* at the time of the signing of the treaty with regard to fortifications and naval bases would be maintained in specified parts of their respective territories and possessions. These for the United States embraced its

insular possessions in the Pacific, except those adjacent to the coast of the United States, Alaska, and the Panama Canal zone, not including the Aleutian Islands and the Hawaiian Islands. In response to the contention that the United States thereby improvidently gave up the right to fortify the Philippines it may be observed that Senator Lodge, on March 28, 1922, in the debate on the treaty, declared that "the Philippines will be in exactly the condition in which they now are and have been ever since they were taken. . . . We shall never fortify them. It would cost hundreds of millions of dollars to fortify them and probably take half a century to do it. We are not going to do it" (*Cong. Record*, LXII, Part 5, p. 4683). Declared also Senator King: "I know of no Senators who have desired to fortify the Philippine Islands. So far as I am concerned, I think we ought to relinquish control over them at once" (*Ibid.*). See also address of Mr. Hughes, at New York City, November 1, 1924.

[28] Declared the Honourable Curtis Dwight Wilbur, Secretary of the Navy, in the course of a statement at a hearing before the sub-committee of the House Committee on Appropriations in charge of the Navy Department appropriation bill for 1926, on December 8, 1924: "The great accomplishment of the limitation of naval armament agreement was not in the fixing of a definite ratio of ships with its attendant economies, but in effecting an agreement making aggressive warfare across the ocean more difficult. That agreement made it impossible for any one of the great powers of the world to make a successful invasion across the Atlantic or Pacific."

[29] Sen. Doc. 126, 67 Cong., 2 Sess., p. 114. It should be noted that by a declaration accompanying the treaty it was said to be the understanding and intent of the signatory powers that the treaty should apply to the mandated islands of the Pacific Ocean; provided, however, that the making of the treaty should not be deemed to be an assent on the part of the United States to the mandates and should not preclude

agreements between the United States and the mandatory powers respectively in relation to the mandated islands; and also that the controversies to which the second paragraph of Article I referred should not be taken to embrace questions which, according to the principles of international law, "lie exclusively within the domestic jurisdiction of the respective Powers."

It should be observed also that by a supplementary treaty between the same four powers, signed February 6, 1922, it was provided that the term "insular possessions and insular dominions" used in the treaty should, in its application to Japan, include "only Karafuto (or the Southern portion of the island of Sakhalin), Formosa and the Pescadores, and the islands under the mandate of Japan."

[30] "These principles have been called co-ordinate, but they are, in fact, different aspects of the same principle. For any impairment of the sovereignty of China must affect the rights and interests of other powers in relation to China; and any attempt to establish a particularistic and exclusive system in favor of any foreign nation thereby creates conditions prejudicial to China's freedom of action in relation to other Powers." Report of the American Delegation to the President, February 9, 1922; Sen. Doc. 126, 67 Cong., 2 Sess., 829.

[31] The contracting powers, other than China, agreed in Article I: "(1) To respect the sovereignty, the independence, and the territorial and administrative integrity of China; (2) To provide the fullest and most unembarrassed opportunity to China to develop and maintain for herself an effective and stable government; (3) To use their influence for the purpose of effectually establishing and maintaining the principle of equal opportunity for the commerce and industry of all nations throughout the territory of China; (4) To refrain from taking advantage of conditions in China in order to seek special rights or privileges which would abridge the rights of subjects or citizens of friendly States, and from

countenancing action inimical to the security of such States." *Ibid.*, 895.

[32] The treaty contained important supplemental provisions. Among them may be noted the assurance that the contracting powers would not support any agreements by their respective nationals with each other designed to create spheres of influence or to provide for the enjoyment of mutually exclusive opportunities in designated parts of Chinese territory. There were provisions respecting railways in China. The rights and obligations of China as a neutral were heeded and appropriately dealt with. The adherence to the treaty by non-signatory powers was to be invited.

[33] Of these documents there should be noted the treaty between the nine powers relating to Chinese customs tariff, of February 6, 1922, reported to the conference by Senator Underwood. This treaty paved the way for the special conference for the speedy abolition of likin and kindred matters, which met at Peking in 1925. There should also be noted the important resolution for the establishment of a commission to inquire into and make recommendations respecting extraterritorial jurisdiction in China, which was productive of the commission which assembled in that country in 1925.

[34] The correspondence between Messrs. Hughes and Briand is contained in Sen. Doc. 126, 67 Cong., 2 Sess., p. 254–257.

[35] Declared an authoritative writer in 1923: "The Shantung question therewith became a rankling sore to the Chinese and a mortification to those who felt that the Treaty had set the world's approval upon Japan's policy of aggression. It may indeed be questioned whether this was not the Achilles' heel in which American participation in the Versailles settlement received its death-wound in the Senate. It is at any rate certain that this disposition of the Shantung question produced in this country a dangerous tension of feeling towards Japan, the more acute because it was associated with do-

mestic questions of great bitterness." ("The Situation in the Far East," by B, *Foreign Affairs*, June 15, 1923, pp. 9, 23.)

[36] Declared Mr. Hughes in the course of his memorial address in honour of President Harding delivered in the House of Representatives, February 27, 1924: "The Conference succeeded because suspicions were allayed. The limitation of great arms of naval warfare, the fighting ships of vast expense, was important, but the limitation of apprehensions was much more important. The menace of distrust gave place to the spirit of co-operation. The Naval Treaty, the Four-Power Treaty, the two treaties in relation to China, were not simply formal engagements but the revelation of a new state of mind. They were not mere promises but in themselves accomplishments, a record of a change of heart."

[37] Letter from the Secretary of State to the Honourable Knute Nelson, July 29, 1922.

[38] The willingness of Germany to permit an American citizen to pass judgment as umpire on claims preferred by his own country was a unique tribute to the integrity and learning of the individual appointed to exercise that function. No event has indicated that this confidence was misplaced or that the umpire failed to act with impartiality.

[39] Article III.

[40] Address before the Chamber of Commerce of the United States at its convention held in Washington, May 18, 1922.

[41] "Some Observations on the Conduct of Our Foreign Relations," an address delivered at Ann Arbor, Michigan, June 19, 1922, *American Journal of International Law* (July, 1922), XVI, 365.

[42] The other members of the mission were the Honourable Stephen G. Porter, chairman of the Committee on Foreign Affairs of the House of Representatives, Admiral Hilary P. Jones, U. S. N., Major General Robert Lee Bullard, U. S. A., and Justice Edward Ridley Finch, of the Supreme Court of New York.

[43] For the proceedings of the Conference see *Conference on Central American Affairs, Washington, December 4, 1922–February 7, 1923* (Washington, Government Printing Office, 1923).

[44] Declared Secretary Hughes in the course of his address at the closing plenary session of the Conference: "Where on this broad earth can be found five peoples, five republics, who have more in common; who have more at stake in friendly intercourse; who have less reason for encouraging antagonisms and the conflict of arms? In truth, you have no serious questions which should vex your peaceful relations."

[45] It may be noted that Secretary Kellogg, in January 1926, in a note to the Nicaraguan minister at Washington referred to these provisions of the treaty and declared: "The United States has adopted the principles of that treaty as its policy in the future recognition of Central American Governments, as it feels that by so doing it can best show its friendly disposition towards and its desire to be helpful to the Republics of Central America."

[46] The convention providing for the establishment of the tribunal was of special interest to the United States, not merely because of the scope of the differences to be adjusted by judicial process, but also by reason of the fact that five of the thirty jurists who were to constitute a permanent panel were to be chosen from a list of fifteen jurists to be submitted by the United States, which, it is to be borne in mind, was not a party to the convention. When the treaty became operative, the United States accordingly, in pursuance of the terms of a protocol by which it had agreed to lend its co-operation, duly submitted a list of fifteen persons deemed eligible for the judicial service.

[47] The United States was a party to the convention for the establishment of international commissions of inquiry. *U. S. Treaty Series*, No. 717.

[48] Mr. Hughes became an Associate Justice of the Supreme

Court on October 10, 1910, and served in that capacity until June 10, 1916.

[49] See address on "The Future of International Law," delivered before the National Conference on Foreign Relations, held under the auspices of the Academy of Political Science, at Long Beach, N. Y., May 28, 1917.

[50] The award was that of the tribunal of arbitration between the United States and Norway, rendered on October 13, 1922, under the special agreement of June 30, 1921. In making payment on February 26, 1923 the Secretary of State in a note addressed to Mr. Bryn, the Norwegian minister at Washington, made it clear that the Government of the United States did not accept the views of the tribunal as declaratory of international law. For the text of the award see *American Journal of International Law*, XVII, 362; also letter from Honourable Chandler P. Anderson, American arbitrator, to the Secretary-General of the Permanent Court of Arbitration, October 13, 1922, *Ibid.*, 399.

[51] *Congressional Record*, LXIV, 4499, 4500.

[52] The Senate yielded its approval on January 27, 1926, but subject to conditions and understandings additional to those that Mr. Hughes had proposed in 1923. These have not yet (1927) been accepted by the several States which are parties of the protocol of Dec. 16, 1920.

[53] *Congressional Record*, LXIV, 5067.

[54] "The Permanent Court of International Justice," *Proceedings* of the American Society of International Law, Seventeenth Annual Meeting, 1923, p. 75.

[55] He said: "We are far better protected by this arrangement than by one which would have all states vote together on exactly the same footing and where the smallest nation would cast the same vote as the United States. The arrangement for our participation in the voting for the judges by the council is really a stronger protection to the interests of the United States than has hitherto been suggested in any plan for a permanent court."

[56] Proof of this fact was subsequently given when, on July 23, 1923, the court declined to render an advisory opinion requested by the Council concerning the status of Eastern Carelia. See *Publications of the Permanent Court of International Justice*, Series B, No. 5.

[57] Address delivered at the Kent centennial celebration at Columbia University, New York City, June 4, 1923.

[58] *Annual Report of the Executive Committee of the American Relief Administration*, Meeting of Trustees and Members, April 4, 1923, p. 7.

[59] It will be observed that the Secretary of State did not here discuss the question of recognition of the Soviet Government, or the implications to be deduced from a trade arrangement.

[60] See statement from the Secretary of State, July 1, 1924, p. 36; also press release from the Department of State, September 19, 1921.

[61] See communication from the Secretary of State to the Italian ambassador at Washington, March 8, 1922, quoted in the statement of the former, July 1, 1924.

[62] See response to the delegation of "The Women's Committee for Recognition of Russia," received March 21, 1923, contained in a collection of papers by Charles E. Hughes entitled *The Pathway of Peace* (New York, 1925), 59. See also his letter to Mr. Samuel Gompers, president of the American Federation of Labor, July 19, 1923, from which excerpts are contained in the Secretary's public statement of July 1, 1924.

[63] See letter from the Secretary of State to Mr. Samuel Gompers, July 19, 1923.

[64] The text of the communication is contained in the statement of Secretary Hughes of July 1, 1924.

[65] *Recognition of Russia*, Hearings before a sub-committee of the Committee on Foreign Relations, United States Senate, 68 Cong., 1 Sess., pursuant to Sen. Res. 50, declaring that the Sen-

ate of the United States favours the recognition of the present Soviet Government in Russia, January 21, 22, and 23, 1924.

[66] Statement of the Secretary of State, July 1, 1924, p. 45.

[67] Declared Mr. Elihu Root at a dinner given in honour of the former Secretary of State, Mr. Hughes, at New York City, November 10, 1925: "He [Mr. Hughes] knew that recognition means that each government accepts the implied assurance of the other government that it will maintain true friendship, true respect, true observance of the obligations of good neighborhood. And he knew also that the fundamental doctrine of the men who govern Russia now is that it is their mission in the world to overturn and destroy the government of the United States, of England, of France, of all the civilized nations of the western world. He knew that in the first place the act of recognition would be a formal and a solemn lie, a false pretense of accepting the obligations of the Bolshevik rulers of Russia to observe friendship to the government and the people of the United States. He knew that they did not intend friendship, but they intended enmity and destruction to the government of the United States and the institutions of the American people, and he knew in the second place that to recognize the Russian Government would be to open the doors to them to carry out their purpose of destructive enmity, and would be a stupid and idiotic yielding to mere momentary expediency in order to make future disaster certain."

[68] This treaty, published as *U. S. Treaty Series*, No. 686, marked the recognition of the sovereignty of Norway over the archipelago of Spitsbergen, including Bear Island, and also made provision for the establishment of an equitable regime for those territories, in order to assure their development and peaceful utilization.

[69] The Amendment, which became operative on January

29, 1919, declared in section 1: "After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited." In section 2 it was declared: "The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation."

The National Prohibition Act, "to prohibit intoxicating beverages, and to regulate the manufacture, production, use, and sale of high-proof spirits for other than beverage purposes, and to insure an ample supply of alcohol and promote its use in scientific research and in the development of fuel, dye, and other lawful industries," became a law, without the approval of the President, on October 28, 1919 (Chap. 85, 41 Stat. 305). A supplemental provision declaring that the act should apply not only to the United States, "but to all territory subject to its jurisdiction," was enacted November 23, 1921 (Chap. 134, 42 Stat. 222).

[70] Cunard S. S. Co. *v.* Mellon, 262 U. S. 100.

[71] One foreign government declared that the American prohibition would be "contrary to the international usage and practice, as heretofore acknowledged and followed, which not only have recognized any mere passage through territorial waters as inoffensive, but also consecrated the non-exercise of jurisdiction within territorial waters over foreign merchant ships which call there, as long as these vessels do not disturb the peace and order inside the foreign territory." Another government intimated that the proposed restriction was inconsistent with the "principle of international law and comity according to which the exercise of the jurisdictional power by a nation in its territorial waters finds an adequate limitation in the right of other countries to the freedom of commerce and navigation." Still another declared that "international comity and the exigencies of international intercourse"

limited the jurisidictional power of a state to matters which involved or might involve the peace or dignity of the country or the public order or safety of the port at which the vessel had arrived.

[72] Declared Chief Justice Taft, October 18, 1923, in his opinion and award as sole arbitrator in the controversy between Great Britain and Costa Rica: "The Constitution of the United States makes the Constitution, laws passed in pursuance thereof, and treaties of the United States the supreme law of the land. Under that provision, a treaty may repeal a statute, and a statute may repeal a treaty." *American Journal of International Law*, XVIII, 147.

[73] Declared Mr. Justice Van Devanter in the course of the opinion of the court in the case of Cunard S. S. Co. *v.* Mellon, 262 U. S. 100, 122: "It is now settled in the United States and recognized elsewhere that the territory subject to its jurisdiction includes the land areas under its dominion and control, the ports, harbors, bays and other enclosed arms of the sea along its coast and a marginal belt of the sea extending from the coast line outward a marine league, or three geographic miles."

[74] See the case of *The Henry L. Marshall*, 292 Fed. 486.

[75] Secretary Hughes made this statement on December 8, 1923.

[76] *U. S. Treaty Series*, No. 685.

[77] *Congressional Record*, LXV, Part 4, 4084–4085. Twenty-eight senators did not vote.

[78] On June 6, 1924 there was signed at Washington a convention between the United States and Great Britain in respect of Canada, to prevent smuggling. By Article VII thereof an arrangement was made for the transportation through the territorial waters of the United States to Skagway, Alaska, and thence by the shortest route, *via* the White Pass and Yukon Railway, upwards of twenty miles to Canadian territory, of intoxicating liquors under conditions

calculated to prevent their unlading or consumption within American territory. *U. S. Treaty Series*, No. 718.

[79] For the text of the Treaty of Sèvres see *The Treaties of Peace, 1919–1923* (Carnegie Endowment for International Peace, 1924), II, 787.

[80] Concerning the capitulations and the regime resulting therefrom see Philip M. Brown, *Foreigners in Turkey* (1914); Frank E. Hinckley, *American Consular Jurisdiction in the Orient* (1906); André Mandelstam, *La Justice ottomane dans ses rapports avec des puissances étrangères* (1911); G. Bie Ravndal, *The Origin of the Capitulations and of the Consular Institution* (Sen. Doc. 34, 67 Cong., 1 Sess.); G. Pélissié du Rausas, *La Régime des capitulations dans l'empire ottoman* (Paris, 2 ed., 1910); F. Rey, *De la protection diplomatique et consulaire dans les Échelles du Levant et de Barbarie* (Paris, 1899).

[81] See statement of the Secretary of State, July 1, 1924, p. 73; also address by him on "Recent Questions and Negotiations," delivered before the Council on Foreign Relations at New York, on January 23, 1924, p. 13.

[82] *Ibid.*, p. 11. "In the light of the traditional policy of the United States it was hardly to be expected that this Government would participate, either with the League of Nations or otherwise, in the guaranty of the security of the non-Moslem minorities in Turkey contemplated in the treaty of peace signed at Lausanne, or that it would agree, as the Allied Powers and Turkey did in the Straits convention, to take any measures which the Council of the League of Nations might decide upon to meet attacks upon the security of the demilitarized zone of the Straits. As regards other portions of the Allied-Turkish settlement, however, such as those relating to the régime to be substituted for the capitulations and those relating to the status of educational, philanthropic and religious institutions in Turkey, suggestions of the formal adhesion of the United States to the Allied-Turkish arrange-

ments were at least not obviously inappropriate." Edgar W. Turlington, "The American Peace Treaty of Lausanne," *World Peace Foundation Pamphlets*, VII (1924), No. 10, p. 590.

[83] For the text of the Declaration see *Ibid.*, Appendix B, 600.

[84] For the text of the communication of the Turkish delegates to the American minister, Mr. Grew, see *Ibid.*, Appendix C, 602.

[85] For that reason he strongly resented suggestions which occasionally found expression in the American press that certain oil concessions previously granted to Rear-Admiral Chester, a retired officer of the United States Navy, had influenced the American stand or had been responsible for any concessions by American representatives.

[86] The text of the treaty was published in Washington in 1926. See, in this connexion, Edgar W. Turlington, "The American Peace Treaty of Lausanne," *World Peace Foundation Pamphlets*, VII, (1924), No. 10; "The Settlement of Lausanne," by the same writer, *American Journal of International Law*, XVIII, 696; "Treaty Relations with Turkey," by the same writer, *Yale Law Journal*, XXXV, 326; "The Turco-American Treaty of Lausanne," *Foreign Policy Association, Information Service*, II, No. 4 (April 1926).

[87] Address on "Recent Questions and Negotiations," before the Council on Foreign Relations, New York City, January 23, 1924, p. 12; also printed as special supplement to *Foreign Affairs*, II, No. 2.

[88] See *The Treaty with Turkey: Statements, Resolutions and Reports in Favor of Ratification of the Treaty of Lausanne*, published by General Committee of American Institutions and Associations in Favor of Ratification of the Treaty with Turkey (New York, 1926). Compare *The Lausanne Treaty, Turkey and Armenia*, prepared by The American Committee Opposed to the Lausanne Treaty (New York, 1926).

[89] *Congressional Record*, January 18, 1927.

[90] Statement of the Secretary of State, July 1, 1924.

[91] See address of Secretary Hughes at mass meeting held at Symphony Hall, Boston, on Monday, October 30, 1922.

[92] Statement of the Secretary of State, July 1, 1924.

[93] *Ibid.*

[94] Proceedings of the United States-Mexican Commission convened in Mexico City, May 14, 1923, published by the Department of State, 1925, formal meeting of August 2, 1923, pages 47–49. See also, in this connexion, Charles Wilson Hackett, "The Mexican Revolution and the United States, 1910–1926," *World Peace Foundation Pamphlets*, IX, No. 5 (1926), p. 373.

[95] *U. S. Treaty Series*, No. 676.

[96] *U. S. Treaty Series*, No. 678. Each commission was to consist of an appointee by the President of each country, and of a presiding commissioner, to be selected if possible by mutual agreement between the two Governments.

[97] See Article XLIX of the Convention of October 18, 1907, for the Pacific Settlement of International Disputes, Malloy's *Treaties*, II, 2220, 2237.

[98] See address by Secretary Hughes on "Recent Questions and Negotiations," delivered before the Council on Foreign Relations, at New York City, January 23, 1924, p. 8.

[99] *Treaty Series*, No. 725. The treaty was proclaimed by President Coolidge on October 14, 1925.

[100] The treaty of commerce and navigation with Great Britain had been concluded on July 3, 1815 (Malloy's *Treaties*, I, 624); that with Denmark, April 26, 1826 (*Ibid.*, I, 373); that with Sweden and Norway, July 4, 1827 (*Ibid.*, II, 1748); that with the Netherlands, August 26, 1852 (*Ibid.*, II, 1248); and that with Italy, February 26, 1871 (*Ibid.*, I, 969).

[101] See, for example, treaty with the Argentine Republic, of July 27, 1853, Malloy's *Treaties*, I, 20.

[102] The preamble announced the desire of the contracting

parties to strengthen the bond of peace which happily prevailed between them, "by arrangements designed to promote friendly intercourse between their respective territories through provisions responsive to the spiritual, cultural, economic, and commercial aspirations of the peoples thereof."

[103] See *Reciprocity and Commercial Treaties*, published by the United States Tariff Commission (Wash., 1919).

[104] Certain reciprocity treaties were concluded pursuant to the Tariff Act of 1897, such as that with Cuba of December 11, 1902. See Malloy's *Treaties*, I, 353. See also, for example, the Reciprocal Commercial Agreement with France of May 28, 1898 (Malloy's *Treaties*, I, 542). The only reciprocity treaty remaining in force was that with Cuba.

[105] This was emphasized by the Secretary of State in his statement before the Senate Committee on Foreign Relations on February 2, 1925.

[106] Act of September 21, 1922, 42 *Stat.* 858, 944–946.

[107] See statement of the Secretary of State before the Senate Committee on Foreign Relations, February 2, 1925.

[108] See *Ibid.* See also Wallace McClure, *A New American Commercial Policy*—As evidenced by Section 317 of the Tariff Act of 1922 (Columbia University, New York, 1924); also by same author, "German-American Commercial Relations," *American Journal of International Law*, XIX, 689.

[109] See statement of the Secretary of State before Senate Committee on Foreign Relations, February 2, 1925.

[110] The Senate also made the reservation that there should be added to Article I of the treaty the following: "Nothing herein contained shall be construed to affect existing statutes of either country in relation to the immigration of aliens or the right of either country to enact such statutes."

[111] See in this connexion Cheung Sum Shee *v.* Nagle, 268 U. S. 340.

[112] See letter from the Secretary of State to the Honourable

Albert Johnson, House of Representatives, February 8, 1924, H. Report 350, Part II, 68 Cong., 1 Sess., p. 25.

[113] *Ibid.*, 3.

[114] See Section 3 (6), 43 *Stat.* 153, 155.

[115] See letter from the Secretary of State to the Honourable Albert Johnson, House of Representatives, February 8, 1924, H. Report 350, Part II, 68 Cong., 1 Sess., p. 27.

That a Japanese born in Japan could not be made a citizen of the United States under its existing statutory law was the view expressed by the Supreme Court of the United States in the case of Ozawa *v.* United States, 260 U. S. 168.

[116] See letter from the Secretary of State to the Honourable Albert Johnson, House of Representatives, cited above.

[117] He said: "It is to be noted that if the provision of subdivision (b) of section 12 were eliminated and the quota provided in section 10 of the proposed measure were to be applied to Japan, there would be a total of only 246 Japanese immigrants entitled to enter under the quota as thus determined." *Ibid.*, 27–28.

[118] *Ibid.*, 28.

[119] See H. Report 350, 68 Cong., 1 Sess., March 24, 1924, p. 7.

[120] The ambassador's note was duly given to the press.

[121] See note of the Secretary of State to the Japanese ambassador, April 10, 1924, which was duly given to the press.

[122] This communication was released to the press by the Department of State on April 19, 1924.

[123] See discussions in the Senate, April 14, 1924, *Congressional Record*, LXV, Part 6, 6302, 6305, 6315.

[124] This communication is published as Appendix "C" to a monograph by John B. Trevor entitled "An Analysis of the Immigration Act of 1924," in *International Conciliation*, September 1924, No. 204.

[125] See communication from the Secretary of State to the

Japanese ambassador, June 16, 1924, released to the press by the Department of State on June 17, 1924.

[126] *The London Meeting of the American Bar Association*, a lecture delivered before the New York Bar Association, by Henry W. Taft, October 9, 1924, p. 3.

[127] *Ibid.*, 5.

[128] See *American Bar Association Visit to England, Scotland and Ireland, 1924*, memorial volume published by the committee on publications, American Bar Association (1926), 90–91.

[129] *Ibid.*, 95. For the address of Mr. Justice Sutherland of the Supreme Court of the United States, who followed the president of the Association, see *Ibid.*, 95.

[130] *The Pathway of Peace*, 102, 106, 107, 108.

[131] See *American Bar Association, Paris Visit, 1924*, report by Paris committee of American Bar Association, under chairmanship of William D. Guthrie, Esq., and published by committee on publications, American Bar Association (1925), 55–56.

[132] *Ibid.*, 52.

[133] See, in this connexion, *Ibid.*, 28.

[134] *Ibid.*, 88–89.

[135] See "Observations on the Monroe Doctrine," an address delivered before the American Bar Association at Minneapolis, August 30, 1923; "The Monroe Doctrine—a Review: its Relation to American Foreign Policy in the Twentieth Century," an address delivered under the auspices of the American Academy of Political and Social Science and the Philadelphia Forum, at Philadelphia, November 30, 1923, to celebrate the centenary of the Monroe Doctrine; "Latin-American Relations," a radio address delivered January 20, 1925. These addresses are contained in *The Pathway of Peace*, 113, 142, 164.

[136] See address of November 30, 1923, *The Pathway of Peace*, 142, 146.

[137] *Ibid.*, 113, 119. The same address is contained in *American Journal of International Law*, XVII, 611 (October 1923); also in *Reports of American Bar Association*, XLVIII, 243 (1923).

[138] In his radio address of January 20, 1925, on "Latin-American Relations," Secretary Hughes declared: "There are those among us who constantly assail our motives in relation to the countries of Latin America. What a pity it is that among our fellow citizens are those who cannot be fair to their own government! And, of course, there are those in other countries who ever seek to create a feeling of animosity toward us. But I am happy to say that these efforts, however persistent, are of diminishing effect. The number is constantly increasing of those who know the truth" (*The Pathway of Peace*, 164, 166).

[139] There was, however, an indirect connexion. Financial protection such as was established over Haiti pursuant to the treaty of September 16, 1915, with the incidental right to employ armed forces, doubtless served to deter European creditor states from taking steps that might have involved a temporary or prolonged occupation of Haitian territory.

[140] Address of August 30, 1923, *The Pathway of Peace*, 113, 132.

[141] *United States Treaties*, III, 2673.

[142] See statement of Secretary Hughes in address of August 30, 1923, *The Pathway of Peace*, 113, 131.

[143] Radio address of January 20, 1925, *The Pathway of Peace*, 164, 167.

[144] For the text of the treaty see Malloy's *Treaties*, I, 418.

[145] See address of August 30, 1923, *The Pathway of Peace*, 113, 130.

[146] *Ibid.*, 164, 167.

[147] See statement given by the Department of State to the press for publication on February 8, 1924.

[148] *The Pathway of Peace*, 164, 167.

[149] *Ibid.*

[150] *Ibid.*, 113, 137.

[151] *Ibid.*, 123.

[152] *Ibid.*, 126.

[153] *Ibid.*, 122.

[154] *Ibid.*

[155] See *Report of the Delegates of the United States of America to the Fifth International Conference of American States held at Santiago, Chile, March 25 to May 3, 1923* (Washington, 1924), p. 6; also Appendix 12, p. 129.

[156] Address of November 30, 1923, *The Pathway of Peace*, 142, 155.

[157] Address of August 30, 1923, *Ibid.*, 113, 138–139.

[158] *Ibid.*, 138.

[159] *Report of the Delegates of the United States of America to the Fifth International Conference of American States held at Santiago, Chile, March 25 to May 3, 1923*, Appendix 9, p. 110.

[160] Address of January 20, 1925, *The Pathway of Peace*, 164, 166.

[161] *U. S. Treaty Series*, No. 717. See also Chapter VII, *supra*.

[162] Address of November 30, 1923, *The Pathway of Peace*, 142, 158.

[163] Address of August 30, 1923, *Ibid.*, 113, 120.

[164] Address of November 30, 1923, *Ibid.*, 142, 157.

[165] Address of August 30, 1923, *Ibid.*, 113, 141.

[166] *Ibid.*, 127–128.

[167] Address of November 30, 1923, *Ibid.*, 142, 162.

[168] *U. S. Treaties*, III, 2538. See Department of State, press release of May 8, 1924, containing text of *procès-verbal* of a meeting on that date of the Secretary of State with the diplomatic representatives of Colombia and Panama.

[169] For the text of the award of the arbitrator, September 12, 1914, see *American Journal of International Law*, VIII, 913.

[170] Department of State, press release, March 5, 1925, concerning the settlement of boundary controversies between Brazil, Colombia, and Peru, containing text of *procès-verbal* of a meeting of the Secretary of State with the diplomatic representatives of those countries on March 4, 1925.

[171] See Vol. VIII, p. 14 ff., of this series.

[172] For the text of the protocol of arbitration see *American Journal of International Law*, XVII, Supplement, 11.

[173] For the text of the opinion and award see *American Journal of International Law*, XIX, 393.

[174] Address delivered before the Chamber of Commerce of the United States, at Washington, on May 18, 1922.

[175] Address delivered at Cincinnati, October 4, 1924. See also address delivered at Montreal, August 30, 1923.

[176] Address delivered at Indianapolis, October 13, 1924.

[177] Convention between the United States and the Central American Republics for the Establishment of International Commissions of Inquiry, *U. S. Treaty Series*, No. 717; also Appendix 9 of *Report of the Delegates of the United States of America to the Fifth International Conference of American States held at Santiago, Chile, March 25 to May 3, 1923.* See also Chapter XIV, *supra.*

[178] See address at Montreal before the Canadian Bar Association on September 4, 1923, *The Pathway of Peace*, 2, 16.

[179] *Ibid.*, 8.

[180] *Ibid.*, 17.

[181] See address on "The Future of International Law," delivered at the National Conference on Foreign Relations of the United States, held under the auspices of the Academy of Political Science, at Long Beach, N. Y., May 28, 1917, *Proceedings*, Academy of Political Science in the City of New York, VII, No. 2, p. 195.

[182] See address on "The Proposed Covenant for a League of Nations," delivered at a special meeting of the Union League Club of New York City, March 26, 1919.

[183] For the text of the Covenant as it appears in the Treaty of Versailles, see *U. S. Treaties*, III, 3336.

[184] See letter to Senator Frederick Hale, July 24, 1919.

[185] *Ibid.*

[186] The following was the text of his proposed reservation touching the matter: "Fourth: that the meaning of Article X of the Covenant of the League of Nations is that the members of the League are not under any obligation to act in pursuance of said Article except as they may decide to act upon the advice of the Council of the League. The United States of America assumes no obligation under said Article to undertake any military expedition, or to employ its armed forces on land or sea, unless such action is authorized by the Congress of the United States of America, which has exclusive authority to declare war or to determine for the United States of America whether there is any obligation on its part under said Article and the means or action by which any such obligation shall be fulfilled."

[187] In the course of that speech Senator Harding said: "I would take and combine all that is good and excise all that is bad from both organizations [the Court and the League]. This statement is broad enough to include the suggestion that if the League, which has hitherto riveted our considerations and apprehensions, has been so entwined and interwoven into the peace of Europe that its good must be preserved in order to stabilize the peace of that Continent, then it can be amended or revised so that we may still have a remnant of the world's aspirations in 1918 builded into the world's highest conception of helpful co-operation in the ultimate realization."

[188] See Chapter II.

[189] *Ibid.*

[190] Statement of the Secretary of State, July 1, 1924.

[191] *Ibid.*

[192] The texts of the Convention and the Final Protocol for

the Suppression of the Abuse of Opium and Other Drugs, signed at The Hague on January 23, 1912, and on July 9, 1913, respectively, are contained in *U. S. Treaties*, III, 3025, and 3037.

[193] See, in this connexion, letter from the Honourable Stephen G. Porter, chairman of the American delegation, to the president of the Narcotics Conference, February 6, 1925, announcing the withdrawal of the American delegation, of which an excerpt was released to the press by the Department of State, February 6, 1925.

[194] Statement of the Secretary of State, July 1, 1924.

In the course of a speech delivered at Balitimore, on October 23, 1924, Secretary Hughes said: "The assertion has been made that we refused an invitation to attend the recent 'conference' at Geneva where the questions of disarmament and peace were discussed. This is a misleading statement. The so-called 'conference' was simply the regular annual meeting of the Assembly of the League of Nations and of course, not being a member of the League, this Government was not invited to attend it. What we were invited to attend was a meeting of a committee for the purpose of dealing with the convention on traffic in arms. This is a distinct matter. The proposed convention on traffic in arms has nothing directly to do with disarmament, for it merely seeks to control traffic in arms with certain persons and territories while leaving the signatory governments free to have all the armament they please. The original convention was signed in 1919. It was not a convention that this Government could ratify and this Government after the fullest consideration so informed the League in answer to its inquiry. There has been a complaint by zealous critics that we did not go into our reasons in our communication to the League. But the League was not a party to the convention and this matter had been taken up with us by the British Government which was a party. After we had carefully studied the matter, we gave our

reasons to the British Government and we supposed that it would advise its co-signatories of our decision. And later this was done. In stating our reasons we pointed out our cordial sympathy with efforts to restrict traffic in arms and munitions of war and the joint resolution of Congress empowering the President in certain cases to impose an embargo on arms. We then pointed out that the distinct feature of the plan was not a provision for a general limitation of armament, but the creation of a system of control by the signatory powers who were left free not only to meet their own requirements in the territories subject to their jurisdiction, but to provide for supplying each other with arms and munitions to the full extent that they might see fit. We found particular objection to the provisions by which the contracting parties were prohibited from selling arms and munitions to States not parties to the convention. It was observed that this Government would be required to prevent shipments of military supplies to any of the Latin American countries which it understood had not signed or adhered to the convention, to wit: Argentina, Colombia, Costa Rica, Dominican Republic, Honduras, Mexico, Paraguay, Uruguay and Salvador, however desirable it might be to permit such shipments, merely because they were not signatory powers and might not desire to adhere to the convention. Finally it was noted that the provisions of the convention relating to the League of Nations were so intertwined with the whole as to make it impracticable for this Government to ratify as it was not a member of the League. It was idle to deal with this matter further until a disposition was shown to meet these basic objections. But on the request of the League we have collaborated with its committee through our representatives in connection with the preparation of a new convention and have stated fully the position of this Government on all points. After the new draft convention had been prepared it was to be taken up in Geneva for the purpose of ascertaining

whether it could be treated as a basis for consideration by an international conference to be called. What they really wished to know in Geneva was whether we were disposed to participate in such a conference and as we had disclosed our position on all points it was not at all necessary that we should attend the further meeting, but quite sufficient that we should say, as we did say, that we were disposed to favor joining in an international conference. Instead of criticizing our action, the leading officers of the League expressed their appreciation of our co-operation."

[195] For text of the address see *The Pathway of Peace*, 32.

[196] He pointed out that the maintenance of the American Army in Europe was at the request of the Allies and of Germany, and under an agreement that its cost with like army costs should be a first charge upon the amounts paid by Germany. He added: "Others have been paid and we have not been paid."

[197] *The Pathway of Peace*, 32, 57–58.

[198] See note from the Marquess of Curzon of Kedleston to Count de Saint-Aulaire and also to Baron Moncheur of August 11, 1923, contained in Misc. No. 5 (1923), *Correspondence with the Allied Governments Respecting Reparation Payments by Germany*, Cmd. 1943, No. 10, p. 48: also note from Raymond Poincaré, president of the council, Minister of Foreign Affairs, to the Marquess of Crewe, British ambassador to France, August 20, 1923, published as *Livre jaune* entitled: "Ministry of Foreign Affairs, Diplomatic Correspondence, Reply of the French Government to the Note of the British Government of August 11, 1923 Relating to Reparations (August 20th, 1923)" (Paris: Imprimerie Nationale, 1923).

[199] See text of decree of September 27, 1923, signed by President Ebert, *Reichsgesetzblatt*, No. 91, of September 28, 1923.

[200] For the text of President Coolidge's announcement see *New York Times*, October 10, 1923, p. 2.

[201] For the text of the British note see *World Peace Foundation Pamphlets*, VI, 338.

[202] The text of the *aide mémoire* is contained in press release from the Department of State, October 25, 1923.

[203] See *communiqué* of the French Foreign Office, October 28, 1923, *World Peace Foundation Pamphlets*, VI, 342.

[204] This fact was brought out in the course of the Secretary's press conference on the afternoon of November 1, 1923.

[205] Secretary Hughes stated his position fully in his conferences with the press on the afternoons of November 1 and 6, 1923.

[206] Reparation Commission Official *Communiqué* No. 224, of November 30, 1923.

[207] See, in this connexion, Arnold J. Toynbee, *Survey of International Affairs, 1924* (London, 1926), 340–348.

[208] The text of the correspondence between M. Barthou and Col. Logan is contained in press release from the Department of State, December 12, 1923.

[209] Reparation Commission Official *Communiqué* No. 226, of December 21, 1923, referring also to the decision of the commission to offer General Dawes the chairmanship of the first committee; and also No. 227, of December 26, 1923.

[210] Arnold J. Toynbee, *Survey of International Affairs, 1924*, 350, 356.

[211] Following the opinion of Sir Cecil J. B. Hurst and M. Fromageot, who were appointed a committee of jurists, the conference, in order to put the Dawes Plan into operation without running counter to the Treaty of Versailles, was productive of four agreements, which were annexed to a final protocol of August 16, 1924. These were: first, an agreement between the Reparation Commission and the German Government; secondly, an agreement between the Allied governments and the German Government concerning that agreement; thirdly, an agreement between the Allied governments and Germany; and fourthly, an inter-Allied

agreement. The texts of these agreements are contained in *Proceedings of the London Reparation Conference, July and August 1924*, Misc. No. 17 (1924), Cmd. 2270. The same document contains the report of the committee of jurists of July 25, 1924, as No. 17, p. 132.

[212] Cmd. 2270, No. 31, p. 196. See also the clear statements of Ambassador Kellogg on August 12, 1924, *Ibid.*, No. 6, pp. 77–81.

[213] See note of the Secretary of State for Foreign Affairs, to the American ambassador, of December 3, 1924.

[214] The correspondence between the American and British Governments, November 15, 1924 to January 4, 1925, relating to the participation of the United States in payments under the Dawes Plan is published as Exhibit F of *American War Claims Against Germany*, Sen. Doc. 173, 69 Cong., 2 Sess.

[215] The views of Secretary Hughes were set forth in a memorandum of November 15, 1924, handed by Ambassador Kellogg to the Secretary of State for Foreign Affairs, November 19, 1924, in a note, same to same, December 10, 1924, and in a note, same to same, January 4, 1925. The British views were set forth in a note from the Secretary of State for Foreign Affairs to Ambassador Kellogg, December 3, 1924, and in a note, same to same, December 29, 1924.

[216] He noted also the fact that the United States, not itself a participant in the conference at Spa in 1920, was not affected by the arrangements thereof, and had so advised the participating powers at the time, and that the reparation commission had adopted a resolution designed to indicate that the Spa agreement was not binding upon non-signatory states. See further discussion of this point in the British note of December 29, 1924, and in the American note of January 4, 1925.

[217] See British note of December 29, 1924.

[218] See American note of January 4, 1925.

[219] Article III. The text of the agreement is contained in

the *American Journal of International Law*, XIX, Official Documents, p. 63.

[220] Act of May 24, 1924, for the reorganization and improvement of the foreign service of the United States, and for other purposes, 43 *Stat.* 140.

[221] See "Remarks to New Consuls," July 20, 1921, *The Pathway of Peace*, 241.

INDEX

Prepared by DAVID M. MATTESON

A B C mediation, 18.
Aikins, Sir James, at Bar Association Meeting, 329.
Alaska, transportation through liquor, 447.
Alexander, R. C., acknowledgment to, 412n.
Aliens. *See* Domicile; Immigration.
Alliance, draft treaty for tripartite, 163.
American Bar Association, Hughes as president, London meeting, 327–332.
American Historical Association, Hughes's address, 376–379.
American Journal of International Law, Lansing as editor, 48.
American Red Cross, Lansing's interest, 174.
American Society of International Law, Lansing's activity, 48; Hughes's address, 276.
Anderson, C. P., German Claims Commission, 255.
Anderson, F. E., peace mission, 140.
Anglo Japanese alliance, and Far Eastern problem, 242; attitude of Dominions, 243; termination, 248.
Annexations, Virgin Islands, 121.
Apponigi, Count Albert, and Anderson's mission, 140.
Arabia, sinking, 62, 78.
Arbitration, Central American boundaries, 351; Tacna-Arica, 352–354; Hughes and general treaties, Senate's attitude, 354; Hughes on limitations, 355–357. *See also* International tribunals; Peace.
Archæological Society of Washington, Lansing's interest, 174.
Argentina, Mexican mediation, 18; and Pan-American peace pact, 112; and World War, 124; Colby's visit, 213. *See also* Latin America.
Armenia, abandonment, 297, 298, 302; Hughes's attitude, 301; Wilson's futile award, 301.
Arms and munitions, war-time sale and neutrality, 24, 36; sale to Mexico, 308; Hughes on general convention on traffic, 458. *See also* Disarmament.
Arras, Desiderio, American relations, 119, 120.
Asquith, H. H. and House's intervention plan, 73; and Wilson's attendance of peace conference, 147.
Austria, American declaration of war, 99. *See also* World War.

Bainbridge, Frances L., Mrs. Colby, 182.
Baird, Mary, Mrs. Bryan, 4.
Baker, N. D., and unified command, 104; and distinct American army, 105; Cabinet meetings during Wilson's incapacity, 170.
Baker, R. S., on American program at peace conference, 151; on Wilson and League of Nations, 153, 156, 157.
Balfour, Arthur, American mission, 100; and secret treaties, 105; and Wilson's attendance of peace conference, 147; and League of Nations, 158; conference with American war mission, 193; American rights in mandates, 241;

Shantung, 251; on Hughes at Washington Conference, 436.
Baltimore *Sun*, on Wilson and Lansing, 173.
Barnes, H. E., on responsibility for World War, 161.
Barthou, Louis, reparations, 384.
Bassett, F. B., accompanies Colby, 429.
Belgium, Hughes's visit, 334; Washington Conference, 435.
Benes, Edward, Czecho-Slovakia, 110.
Benson, W. S., war mission to Europe, 102.
Berlin, Hughes's visit, 335.
Berlin, Treaty of, 228.
Bernstorff, Graf Johann, on Wilson and foreign policy, 54; *Lusitania* and *Arabia*, 61–63, 78; renewal of submarine warfare, advice, 87, 91–93; dismissal, 94.
Bethmann-Hollweg, Theobald von, renewal of submarine warfare, 92; peace terms, 417.
Bimetallism, Bryan's championship, 4.
Black list, Allied, effect, 85, 86; American, 102.
Bliss, T. H., war mission to Europe, 102, 103; Supreme War Council, 104; and unified command, 104; peace commissioner, 149; and League of Nations, 156.
Blockade, Lansing's protest, 65. *See also* Neutral trade.
Bolivia, and World War, 124. *See also* Latin America.
Bolshevism. *See* Russia.
Borah, W. E. call of Washington Conference, 243.
Boundaries, Hughes and Latin-American controversies, 351; Tacna-Arica, 352–354.
Branting, Hjalmar, and Russian plan, 206, 207.
Brazil, Mexican mediation, 18; and Pan-American peace pact, 112; German war, 124; Colby's visit, 213, 429; Hughes's mission, 261–265, 441; Columbia-Peru boundary, 352. *See also* Latin America.
Briand, Aristide, and House's intervention plan, 73; Washington Conference, 250.
Bristol, M. L., commissioner in Turkey, 299.
Brum, Baltasar, American visit, 213.
Bryan, Mariah E. (Jennings), 3.
Bryan, Mary (Baird), 4.
Bryan, S. L., 3.
Bryan, W. J., appointment as Secretary, 3, 7; birth, training, 3; marriage, 3; in Congress, 4; presidential candidacies, 4–6; in Spanish War, 5; and imperialism, 5, 13; *Commoner*, 6; campaign of 1904, 6; campaign of 1912, and Wilson, 6; democratic principles as Secretary, 8; diplomatic appointments, 8; unconventional intercourse, 9; conciliation treaties, 9, 31; and foreign policy, 10; Chinese consortium, 10; anti-Japanese state laws, 11, 406; and dollar diplomacy, 11, 13; Colombian treaty on Panama, 12, 115; Central American diplomacy, 12, 114; Santo Domingo and Haiti, 12; canal tolls, 13; Huerta, 14; Tampico, 16; ultimatum to Carranza, 19; plan for neutrality of American nations, 20; outbreak of World War, 22; policy of mediation, 23, 32–34; Declaration of London, 23; munitions trade, 24, 36; belligerent loans, 25; and Allied restrictions on trade, 30, 407; efforts to terminate the war, 31; and German war-zone policy, 35; policy of present accommodation

and later accountability, 37–39; and *Lusitania*, counter-balancing policy, first note, 38, 39, 51, 408; Dumba interview, 40; second note, resignation, 41, 42, 52, 409; policy in retirement, 43; later activities, 43, 44; death, 44; Japan and China, 131, 132, 421; Colby debate, 210; material, 405.
Bryan-Chamorro Treaty, 12, 114.
Bryce, Viscount, and Lansing's neutral-rights note, 64; Hughes's tribute, 232, 432.
Bryn, H. H., on American-Norwegian case, 443.
Buero, J. A., dinner to Colby, 214.
Bullard, R. L., accompanies Hughes, 441.
Bullitt, W. C., on Lansing and peace treaty, 167, 426.

Cables, war interference, 29.
California, anti-Japanese legislation, 11, 406.
Calles, P. E., visit to United States, 309.
Cambon, Paul, and House's intervention plan, 73; on secret treaties, 106.
Canada, treaty on liquor transportation, 447.
Canadian Bar Association, Hughes's address, 358–360.
Caperton, W. B., in Dominican Republic, 120.
Capitulations, Turkish denunciation, 297–299.
Capture. *See* Neutral trade.
Caribbean Sea, Lansing's policy, 111; Hughes on interests and interventions, 337–340, 349.
Carnegie Endowment for International Peace, Lansing's interest, 174.
Carranza, Venustiano, conduct as executive, Wilson's attitude, 18; recognition, 111–113; and expedition against Villa, 113; and Germany, 124, 125.
Carter, Antoinette, Mrs. Hughes, 221.
Cecil, Lord Robert, conference with American war mission, 193.
Central America, Bryan's conciliation treaties, 10; dissolution of international court, 115; origin of conference, 266; Hughes and American attitude at conference, 267, 268, 442; results, 268, 269, 347, 442; re-establishment of court, 269, 442; Hughes's influence, 269, 270. *See also* Caribbean Sea; Isthmian canal; Latin America; nations by name.
Chamber of Commerce of the United States, Hughes's address, 256.
Chamberlain, Sir Austen, conference with American war mission, 193; on Soviets, 205.
Chamorro, Emiliano, candidacy, 114
Chester, C. M., oil concession, 449.
Chicherin, Georghy, Hughes's note on recognition, 285.
Chile, Mexican mediation, 18; and Pan-American peace pact, 112; and World War, 124; Tacna-Arica controversy, 352–354. *See also* Latin America.
Chilton, H. G., and prohibition treaty, 295; and reparations, 380.
China, Wilson and consortium, 10; recognition of Republic, 11; Japanese relations and World War, 127–130, 133, 421; purpose of Ishii's American mission, 130. American proposal of identic note to, 129, 131; American note of advice, Japanese reaction, 129, 130; Sato-Lansing interview on paramount interest in, 132, 421; Lansing-Ishii conferences on same,

133–135, 137–139, 422; resulting agreement, wording, 135–137; Shantung in peace conference, 162, 165, 425, 440; Japanese agreement on Shantung, 250. *See also* Washington Conference.
Chinda, Viscount, Chinese relations, 131, 421; and anti-Japanese legislation, 406.
Civil War, and neutral rights, 69.
Claims, Mexican, oil rights, conventions, 169, 303–307, 450; German Mixed Commission, 253–256, 441; postbellum crop and conventions, 350; payment of Germans, out of reparations, 386–392.
Clark, Champ, and Bryan, 6.
Clemenceau, Georges, Council of Ten, 150.
Colby, Bainbridge, appointment as Secretary, rationale, 179–182, 197, 218; parents, birth, training, 182; Progressive party, 183, 184; in 1916 campaign, support of Wilson, 184–190; declines office, 191; Shipping Board, 192, 195; war mission, shipping policy, 193–195; task as Secretary, 198, 199; Japan and Sakhalin, 200, 428; Soviets, 200–205, 217; plan for Russia, 206–208; Mexico, 208; League of Nations, 209; in campaign of 1920, 210; rights in mandates, 211–213, 237, 433; Latin-American visit, 213, 428; on Monroe Doctrine, 214–216; law partnership with Wilson, 216; services as Secretary, 217; as Wilson's *alter ego*, 218; material, 427.
Colby, Frances L. (Bainbridge), 182.
Colby, J. P, career, 182.
Colombia, and World War, 124; Panama boundary treaty, 351; Brazil-Peru boundary, 352. *See also* Isthmian canal; Latin America.
Commerce. *See* next title; Open door; Prohibition.
Commercial negotiations and treaties, Turkish, 299, 300; Hughes's policy of rewriting, 309–311, 450; German, 311–317, 450, 451; most-favoured-nation policy, 312; reciprocity in shipping duties, 313–316.
Common law, Hughes's address, 329.
Commoner, Bryan's paper, 6.
Communism, propaganda, 204, 286. *See also* Russia.
Congress, Sixty-third, canal tolls, 13; Mexico, 17; Sixty-fourth: armed merchantmen, 77, 95; Allied black list, 86; naval program, 86; Sixty-fifth: war message and declaration, 96; war with Austria, 100; Sixty-sixth: League of Nations, 198, 225; Sixty-seventh: German peace, 226, 432; World Court, 274; prohibition, 446; Sixty-eighth: German commercial treaty, 316, 451; immigration, Japanese exclusion, 319–322, 324; foreign service, 395.
Connelly, Mary C., Mrs. Hughes, 221.
Consortium, Wilson's withdrawal, 10.
Consular service, Jenkins case in Mexico, 169, in Turkish negotiations, 300; rights in German treaty, 311; Rogers Act, 395.
Contemporary Review, on Colby's mandate note, 212.
Continuous voyage doctrine, 69.
Contraband, during World War, 26, 27, 59; carrying neutral vessels into port for search, 65. *See also* Neutral trade.
Coolidge, Calvin, and Soviets, 287;

most-favoured-nation treatment, 313; on reparations problem, 380.
Costa Rica, and Bryan-Chamorro Treaty, 12, 115; Tinoco revolution and German war, 123; Panama boundary, 351. *See also* Central America; Latin America.
Council of Four, 158.
Council of Ten, 149, 150.
Crane, W. M., on Colby, 190.
Crawford, W. H., accompanies Colby, 429.
Cronkhite, Adelbert, accompanies Colby, 429.
Cuba, war with Germany, 123. *See also* Caribbean Sea; Latin America.
Curzon, Marquess of, conference with American war mission, 193; mandates, 210; and prohibition treaty, 295; reparations, 380.
Czecho-Slovakia, legion in Russia, 110; recognition, 110, 145.

Dacia, seizure, 407.
Danish West Indies, Lansing's interest, 111; purchase, 121.
Dartiguenave, Sudre, election, 338.
Davis, N. H., and Mexico, 208.
Dawes, C. G., reparations committee, 385.
Dawes Plan. *See* Reparations.
Day, Clive, on Council of Ten, 149, 150; on Council of Four, 158.
Day, W. R. and claims against Germany, 255.
Declaration of London, attempt to vitalize, 23, 26.
Democracy, Lansing on German policy and, 55, 97, 98.
Denman, William, Shipping Board, 192.
Denmark, sale of West Indian islands, 121.
Department of State, as international-law office, 296. *See also* Bryan, W. J.; Colby, Bainbridge; Foreign relations; Hughes, C. E.; Lansing, Robert.
Derby, Earl of, conference with American war mission, 193.
Dibdin, Sir R. W., at Bar Association meeting, 329.
Disarmament, and general convention on traffic in arms, 458–460. *See also* Washington Conference.
Dmowski, M., Poland, 110.
Dodd, W. E., on Lansing-Ishii agreement, 138.
Dollar diplomacy, Wilson's attempted repudiation, 10, 11, 13.
Dolphin, U.S.S., Tampico affair, 16.
Domicile, right in German treaty, 311.
Dominican Republic. *See* Santo Domingo.
Donmergue, Gaston, and Hughes, 334.
Dresel, E. L., German peace treaty, 228.
Dumba, Konstantin, Bryan's interview on *Lusitania*, 40.

Ebert, Friedrich, Government, 145.
Ecuador, and World War, 124. *See also* Latin America.
Eighteenth Amendment. *See* Prohibition.
Elections, Bryan's candidacy and influence, 4–7; of 1912, Colby's activity, 183; of 1916 Colby and Progressive support of Wilson, 184–190; Hughes's candidacy, 222; of 1920, League as issue, 210, 225, 364–366, 457; Colby's activity, 210.
Evolution, Bryan's denunciation, 44.
Extraterritoriality, Turkish denunciation, 297–299; in China, 440.

Falaba, sinking, 51.
Fall, A. B., and Colombian treaty

on Panama, 115; and Mexico, 169.
Far East, Anglo-Japanese alliance, 242, 243, 248. *See also* China; Japan; Washington Conference.
Fay, S. B., on responsibility for the war, 161.
Feng Kwo-Chang, President, 133.
Finance, Wilson and Chinese consortium, 10.
Finch, E. R., in Hughes's mission, 441.
Five Power Treaty, 247, 437.
Fletcher, F. F., Vera Cruz, 17.
Florida, U.S.S., Colby's South-American trip, 429.
Foch, Ferdinand, general command, 104; armistice terms, 146.
Foreign relations, Bryan's attitude, 8; Hughes and social phase, 231–233; Hughes's official contact, 233–235; Hughes on conduct, 256–259; his press conferences, 259–261; Hughes on United States and Europe, 331; Rogers Act, 395.
Foster, Eleanor, Mrs. Lansing, 47.
Foster, J. W., and Lansing, 47.
Four Power Treaty, 247, 248, 437–439.
Fourcade, Manuel, on Hughes, 333.
Fourteen Points, Wilson's peace basis, 143.
France, Bryan's conciliation treaty, 31; Hughes's visit, 332–334. *See also* Washington Conference; World War.
Francis, D. R., on secret treaties, 106; and Soviets, 109.
Frankfurter, Felix, Turkish peace mission, 141.
Fromageot, ——, and Dawes Plan, 461.
Fuller, J. V., acknowledgment to, 410, 412n.
Geddes, Sir Auckland, contact with Hughes, 234; prohibition treaty, 296.
Gentleman's Agreement, and exclusion by Congress, 322, 325.
Gerard, J. W., and neutral rights, 36; on decision on submarine warfare, 78, 415; on raw material, 408.
Germany, House's plan of relations, 8; revolution, 145; prohibition treaty, 296; commercial treaty, 311–317, 450, 451. *See also* World War.
Goethals, G. W., Emergency Fleet Corporation, 192.
Gooch, G. P., on responsibility for the war, 161.
Gore, T. P., resolution on armed merchantmen, 77.
Great Britain, Page's scheme of relations, 8; Panama Canal tolls, 13; Bryan's conciliation treaty, 31; Japanese alliance, 242, 243, 248; postbellum American relations, 242; prohibition treaty, 292–296; Hughes's visit, 327–332. *See also* Washington Conference; World War.
Great Corn Island, lease, 114.
Grew, J. C., Turkish treaty, 300.
Grey, Sir Edward, and good offices, 23; neutral-trade arrangement, 27; contraband, 59; Lansing's neutral-rights note, reply, 68, 69; House's intervention plan, 73, 74, 81, 415; and Wilson's attendance at peace conference, 147.
Guatemala, war on Germany, 123. *See also* Central America; Latin America.
Gulf of Fonseca, naval base, 114.

Hague Tribunal, and Mexican claims, 307; American-Norwegian decision, 443.

Haiti, Lansing on intervention, 115; character of government, 116, 117, 338; control by American marines, 117; protectorate treaty and occupation, 117, 118, 338, 454; war with Germany, 123; Hughes on situation, 339.
Haldane, Viscount, at Bar Association meeting, 329.
Hanihara, Masanao, protest on Japanese exclusion, Hughes's reply, 322–324.
Harding, W. G., proposed foreign policy, 213, 428; appointment of Hughes, 223; election, 225; peace treaty, 227; Washington Conference, 244, 245; World Court, 274, 275; Soviets, 287; most-favoured-nation treatment, 313; League of Nations, 364–366, 457; and Hughes's New Haven address, 376.
Hastings, Sir Patrick, at Bar Association meeting, 329.
Hay, John, Danish West Indies, 122.
Hendrick, B. J., on belligerent United States and neutral rights, 101; on Wilson and House's peace plan, 415.
Herrick, M. T., and mediation, 22; and reparations, 375.
Honduras and Bryan-Chamorro Treaty, 115; war with Germany, 123. *See also* Central America; Latin America.
House, E. M., international-relations scheme, 8; plan for American League, 19–21, 111, 112; European tour (1914) for international friendship, 22; neutral rights and British relations, 25, 26; delayed plan of peace parleys, 33, 34, 40; and State portfolio, 52; and informal foreign negotiations, 54, 96; intervention plan, 72; Allies and plan, 73–75, 81, 83; on Lansing's sea-war rules, 75; and break with Germany, 78, 94; and Wilson's compromise peace policy, 87; and German peace proposals, 88; and renewal of submarine warfare, 92; on Wilson and Cabinet, 95; war with Austria, 100; war mission to Europe, 102, 193; Supreme War Council, 104; and secret treaties, 105; and peace terms, 145; peace commissioner, 147; and Wilson's attendance of conference, 147; commission of inquiry, 151, 424; and League of Nations 153, 154, 156, 158; in Council of Ten, 157; on Lansing, 175.
Houston, D. T., on second *Lusitania* note and Lansing's appointment, 52, 56, 413; on Wilson and Lansing, 173; on Wilson and Secretary of State, 180.
Huerta, Adolfo de la, revolt, 308.
Huerta, Victoriano, Wilson's attitude, 14–16; submission, 18.
Hughes, Antoinette (Carter), 221.
Hughes, C. E., presidential candidacy, 187, 188, 222; and Colby's policies, 209, 212; birth, training, family, 221; as lawyer, 221; investigations and state office, 222; Justice, 222, 439; war service, 223; appointment as Secretary, 223; separate peace treaties, 227–230, 432; social relations, 231–233, 327, 331; tribute to Bryce, 232, 432; official contact, 233–235, 398; American rights in mandates, 238–241, 433–435; Yap settlement, 241, 433; call of Washington Conference, agenda, 244; opening address, naval limitations, 245, 246, 436–438; treaty on Pacific relations, 247, 248, 437–439; Chinese integrity and open door, 249, 250, 439, 440;

power in Conference, on results, 250, 441; Shantung settlement, 251; German Claims Commission, 253–255, 441; on conduct of foreign relations, open and secret diplomacy, 256–259; press conferences, 259–261; Brazil mission, address on American policy, 261–264, 441; and Mexican salute, 261; on method of peace, 263; Central American Conference, on American attitude, 266–270, 442; interest in World Court, 271, 278; plan for American adherence, 272–274, 443; and obligatory jurisdiction, non-legal and domestic matters, 274–276, 355–357; on Court and League of Nations, 276–278, 443; on Court and international law, 278; waiting on Russian rehabilitation, 280–282, 288, 444; recognition of Soviets, 282–287, 445; and Soviet foreign affairs, 287; prohibition and treaty-making power, 290–292; three-mile limit and rum-running, 292–294; prohibition treaties, sealed liquor and seizure on high seas, 294–296, 447; legal basis of conduct of Department, 296; Turkish problem and negotiations, 298–300, 448, 449; Armenia, 301; Mexican claims, oil rights, 303–308, 450; recognition of Obregón, 308; sale of arms to Mexico, 308; reception of Calles, 309; policy of rewriting commercial treaties, 309–311, 450; German commercial treaty, 311, 450; most-favoured-nation policy, 313; reciprocity on navigation duties, 313–316; considerateness, 318; non-immigrant arrivals, 319; Japanese exclusion in immigration bill, 320–322, 324, 452; Japanese correspondence on exclusion, 322–326; London visit as head of Bar Association, 327–332; address on common law, 329, 330; on European relations of United States, 331; at Paris, 332–334; on France and United States, 332; on international law, 333, 359; in Belgium, degrees, 334; in Berlin, 335; on Monroe Doctrine and non-American powers, 336, 342; on Doctrine and American states, 337, 341–344, 348, 454; on interventions, 339, 340, 349; on Doctrine as unilateral, and Pan-Americanism, 344–347; on Doctrine and self-defense, 348; on protection of Canal, 349; post-bellum claims conventions, 350; and office seekers, 350; Latin-American boundary controversies, 351; Tacna-Arica, 352–354; and general arbitration treaties, 354; on limit to international arbitration and tribunals, 355–357; on joint commissions as promoting peace, 357–359; on way to peace, 359, 360; peace-promotive actions, 360; ideas on international league (1917), 362; analysis of League of Nations, 363, 364, 457; pre-election support of League with reservations, 364, 365; and defeat of League, 366, 372; co-operation with League and foreign states, 367–373; first suggestions on reparations, 374–376; New Haven address, 376–379; notes on economic inquiry and scope, American participation, 379–384; European conferences on Dawes Plan, 385; American claims in allocation of payments, 386–393, 459, 462; method of work as Secretary, 394; and foreign service, 395; and Rogers Act, 396; and subordinates, 396, 397; rights

of individuals, and bureaucracy, 397, 398; and politics in Department, 398; achievements, judicial spirit, 399–401; material, 431; on general convention on traffic in arms, 458–460.
Hughes, C. E., Jr., 221.
Hughes, Catherine, Mrs. Maddell, 221.
Hughes, D. C., 221.
Hughes, Elizabeth, 221.
Hughes, Helen, 221.
Hughes, Mary C. (Connelly), 221.
Hughes, W. M., and Anglo-Japanese alliance, 243.
Hurley, E. N., Shipping Board, 192.
Hurst, C. J. B., and League of Nations, 155; and Dawes Plan, 461.

Immigration, quota act, non-immigrants, 319; Hughes's protest on Japanese-exclusion clause, 320–322, 452; Japanese protest, Hughes's reply, 322–324; statutes and commercial treaties, 451.
Imperialism, Bryan's attitude, 5, 13.
Inter-allied War Conference, 103, 193.
International law, and World Court, 278; Department of State as office, 296; Hughes on development, 333, 359. *See also* Neutral trade.
International tribunals. *See* Central America; Hague Tribunal; World Court.
Intervention, in Santo Domingo and Haiti, 12, 115, 117–121, 338, 339, 454; House's plan in World War, 72–75, 81, 83, 415; in Nicaragua, 114; Hughes on, and protection of Canal, 349.
Ireland, American sympathy, 243.
Irias Julian, candidacy, 114.
Irigoyen, Hipólito, and World War, 124.
Ishii, Kikujiro, purpose of American mission, 126, 130, 137; Lansing conferences, 133–135, 137–139; resulting agreement, wording, 135–137; hypothesis of threat, 138, 422.
Isolation, draft treaty for Anglo-Franco-American alliance, 163; Hughes and premise, 368; and his actions, 372. *See also* League of Nations; World Court.
Isthmian canal, Bryan's treaty with Colombia, 12, 115; Bryan-Chamorro Nicaraguan, concession treaty, 12, 114; tolls, 13; Hughes on protection, 349; Colombia-Panama boundary agreement, 351.
Italy, and Treaty of London, 105; prohibition treaty, 296. *See also* Washington Conference; World War.

Jagow, Gottlieb von, reply to Wilson's ultimatum, 79.
Japan, House's plan of international relations, 8; German anti-American proposals, 96, 125; secret treaties with allies, 105, 107, 127, 134; troops in Siberia, 109; purpose of Ishii's American mission, 126, 130, 137; war-time Chinese relations, 127–129; and American advice to China, 129, 130; and identic representation to China, 131; Sato-Lansing interview on paramount interest in China, 131–133, 421; Lansing-Ishii conferences on this, 133–135, 137; resulting agreement, wording, 135–137; hypothesis of threat against Allies, 138, 422; in peace conference, Shantung and League, 158, 162, 440; Sakhalin, Colby's protest, 200, 428; Yap affair, 212,

236, 237, 241, 433; British alliance, 242, 243, 248; Shantung settlement, 250; protest on exclusion act, Hughes's reply, 322–326. *See also* Washington Conference.
Japanese, Bryan and restrictive state legislation, 11, 406; exclusion in immigration bill, Hughes's protest, 320–322, 452; Japan's protest, Hughes's reply, 322–326; not eligible to citizenship, 452.
Jellicoe, Sir John, conference with American war mission, 193.
Jenkins, W. O., affair in Mexico, 169.
Jennings, Mariah E., Mrs. Bryan, 3.
Johnson, Albert, immigration bill, 319.
Jones, H. P., in Hughes's mission, and Mexican salute, 261, 441.
Jugo-Slavia, and peace terms, 145.
Jusserand, J. J., and House's intervention plan, 82; reparations, 375.

Karnebeek, H. A. van, and Hughes, 335.
Kellogg, F. B., and separate peace treaty, 227; allocation of reparations, 385; on Central-American peace treaty, 442.
Kelly, William, accompanies Colby, 429.
Kiesselbach, Wilhelm, claims commissioner, 255.
King, W. H., on Philippines, 438.
Knapp, H. S., in Dominican Republic, 121.
Knox, P. C., Colombian treaty on Panama, 115.
Kolchak, V. V., question of recognition, 170.

Lane, F. K., Cabinet meetings during Wilson's incapacity, 170; on Lansing, 426.
Lansing, Eleanor (Foster), 47.
Lansing, Robert, note on Declarration of London, 25; understanding with Allies on Neutral trade, 26; reply to German war zone 35, 51; Secretary *ad interim*, 47; appointment, reception, 47, 52–54, 413; birth, training, 47; marriage, 47; international law practice, 48; as counsellor for Department, 48; problem of neutral property rights, 49, 50, 64, 71, 413; of neutral lives, 50; first *Lusitania* note, 51; guides in conduct of office, 55; and Germany and democracy, 55, 97; second *Lusitania* note, 56; third note, ultimatum, 50, 61; German disavowal, 62, 63, 77; note on Allied neutral-trade violations, 64, 65; tone of note, 65–68; its justice, 68–70; House's intervention plan, 73; sea-war rules, unarmed merchantmen, 75–77; advocates break with Germany, 78; ultimatum note, and reply, 79–81; German peace proposals, 88; inquiry on war aims, statements, 89, 90; break with Germany, 94; influence on war decision, 96, 97; relations with Germany's allies, 100; Allied commissions, 102; on American commission to Europe, 103; and Allied secret treaties, 106, 107, 419; Russian Revolution, Soviets, 108–110, 170, 419; recognition of Czecho-Slovakia and Poland, 110; policy on Latin America, 111; Pan-American peace pact, 111, 112; Mexico, 112, 113, 169; Nicaragua, 114; Colombian treaty on Panama, 115; Haiti, 115–118; Dominican Republic, 119–121; Danish West Indies, 122; Latin America and World War, 122–124; Japan and China and World War,

128–130, 133, 421; Sato interview on Japanese paramount interest in China, 131–133, 421; Ishii conferences on same, 133–135, 138–139, 422; resulting agreement, wording, 135–137; Anderson's peace mission, 140; Morgenthau's Turkish mission, 141; Central Powers' peace appeals, 142–144, 146; peace commissioner, 147; and Wilson's decision to attend peace conference, 147; divergence from Wilson, 149, 162, 164, 171, 172, 424; and power in conference 150, 151; program, 151, 152; draft of treaty, Wilson's reaction, 153; commission on responsibility for the war, 153, 159–161; League of Nations, 153, 155–157, 164, 167, 424; in Council of Ten, 157; side-tracking League, 158; attitude at conference, 161, 164, 167; reparations, 162; Shantung, 163; tripartite alliance, 163; why he remained in office, 164, 173, 426; departure, 166; League before Senate, 166; Bullitt's statement on attitude, Wilson's reaction, 167, 168, 426; during Wilson's illness, Cabinet meetings, 168, 170; forced resignation, correspondence, 171, 172, 181; public opinion on resignation, 172, 173; later practice of international law, 174; humanistic interests, 174; death, 174; qualities, House's appraisal, 175; material, 410–412.

Latin America, Wilson and dollar diplomacy, 10, 11, 13; Lansing's policy, 111; and World War, 122–125; Colby's visit, 213, 429; Hughes's policy, 263. *See also* Central America; Intervention; Monroe Doctrine; Pan-America; countries by name.

Lausanne, Turkish negotiations and draft treaty, 297–303.

Law, A. Bonar, conference with American war mission, 193.

Lawrence, David, on Wilson and *Lusitania*, 408.

League of Nations, House's plan for an American, 19–21, 111, 112; Wilson's foreshadowing (1916), 83; in Fourteen Points, 143; special commission to devise, 153; Wilson's and Lansing's divergence of views, Article X, 153, 155–157, 164, 424; development of Wilson's plan, 154; as part of peace treaty, 157; report to conference, 157; as to attempt to side-track, 158; and Shantung, 163, 425; and tripartite alliance, 163; Lansing and Senate, 166; conflict in Senate, rejection, 198, 225; Colby's support, 209; as issue, 210, 225, 364–366, 457; and separate American peace treaties, 228; and United States and World Court, 273, 276; Hughes's ideas (1917), 362; his analysis of text, 363, 457; Hughes's support with reservations, 364; Hughes and defeat, 366, 372; his policy of co-operation, 367–372, 458; Hughes on convention on traffic in arms, 458–460.

League to Enforce Peace, Wilson's address, 83.

Letters of assurance, 414.

Li Yuan-Hung, and Japan, 129.

Likin, abolition, 440.

Lind, John, Mexican mission, 15.

Liquor. *See* Prohibition.

Lithuania, question of recognition, 170.

Little Corn Island, lease, 114.

Lloyd George, David and House's intervention plan, 73; Supreme War Council, 103, 104; and Wilson's attendance of peace con-

ference, 147; proceedings against Kaiser, 160; conference with American war mission, 193; Dominions and Japanese alliance, 243.
Lodge, H. C., and Colombian treaty on Panama, 115; on appointment of Colby, 197; League of Nations, 225; separate peace treaty, 227; Washington Conference, 247; World Court, 274, 276; on Four Power Treaty, 438.
Logan, J. A., reparations, 384.
London, meeting of American Bar Association, 328–330.
London, Treaty of, secret, 105.
Ludendorff, Erich von, and military prospects, 142, 143.
Lusitania, sinking, first American note, 38–40, 51, 408; effect of Dumba-Bryan interview, 40; German reply, 41, 51; second note, 41, 52, 55–57; second reply, 57–60; third note, 60, 61; German unsatisfactory disavowal, 61–63, 77.
Lvov, Prince George, Government, 107.

McAdoo, W. G., and Lansing's appointment, 52, 413.
McLemore, Jeff, resolution on armed merchantmen, 77, 415.
Mails, war-time interference, 84.
Mandates, Lansing and plan, 157; Colby on American rights, 210, 237, 433; provision for, 236; Hughes on American rights, 238, 433; settlement of Yap question, 241, 433; other settlements, 241, 434; United States and Turkish territory, 434–436; and Four Power Treaty, 438.
Marshall, T. R., and Wilson's incapacity, 170.
Maryland, U.S.S., Hughes's Brazilian mission, 261.
Masaryh, T. G., Czecho-Slovakia, 110.
Max, Prince and revolution, 145.
Mayo, H. T., Tampico incident, 16.
Mediation, A B C, in Mexico, 18; offer on outbreak of World War, 22; Bryan's policy and House's scheme, 31–34, 40. *See also* Intervention; Peace.
Mesopotamia, American rights in mandate, 211, 237.
Mexico, Wilson and Huerta, 14–16; Tampico affair, occupation of Vera Cruz, 16, 17; A B C mediation, 17; Carranza's conduct, 18; Wilson's ultimatum to him, 19; German anti-American proposals, 96, 125; Pan-American recognition of Carranza, 112, 113; expedition against Villa, 113; militia on frontier, joint commission, 113; and World War, 124; post-bellum attitude toward, claims, 169; Jenkins affair, 169; Colby's policy, 208; Hughes and salute, 261; claims negotiations, oil rights, 303–306; claims conventions, 307, 450; recognition of Obregón, 308; Huerta revolt, sale of arms, 308; Calles's visit, 309. *See also* Caribbean Sea; Latin America.
Militia, mobilization on Mexican frontier, 113.
Miliukor, Paul, Government, 108.
Millard, T. F., on Japanese threat against Allies, 422.
Miller, D. H., draft of peace treaty, 153; and League of Nations, 155, 156.
Milner, Viscount, conference with American war mission, 193.
Missionaries, in Turkey, and Lausanne Treaty, 299, 303, 448.
Monroe Doctrine, Colby's interpretation, 214–216; Hughes's in-

terpretation as to non-American powers, 336, 342; as to American states, 337, 341–344, 348, 454; and interventions, 337, 349, 454; as unilateral, and Pan-Americanism, 344–238; policy of self-defense, 348.
Moody, W. H., and Hughes, 222.
Morgenthau, Henry, Turkish peace mission, 141.
Most favoured nation, in Turkish negotiations, 300; and reciprocity, 312; tariff of 1922 and unconditional, 312; and navigation duties, 313–316.
Munitions. *See* Arms.

Narcotics Conference, American participation, 370.
Nation, on Lansing, 53, 54.
Naturalization, Japanese not eligible, 452.
Naval base, in Gulf of Fonseca, 114.
Navy, and Japanese tension, 11; program of 1916, 86. *See also* Neutral trade; Washington Conference.
Nelson, Knute, and German claims, 253.
Netherlands, Bryan's conciliation treaty, 10; prohibition treaty, 296; Washington Conference, 435.
Neutral trade and rights during World War, attempt to vitalize Declaration of London, 23, 26; American dilemma, 24, 25; unformulated understanding with Allies, 26–28; American protests, 28; transfer of flag, 29, 407; acceptance of Allied restrictions, danger of German retaliation, 29, 33, 36; Bryan's attitude, 30; German war zone, submarine enforcement, 34; American reply, 34, 51; futile compromise proposals, 35, 36, 40, 408; Bryan's policy of accommodation with both sides, property and life, 37–39; *Lusitania*, first note, 38–41, 51, 408; German reply, 41, 51; second note, 41, 52, 55–57; Lansing and property problems, 49, 64, 71, 413; German second reply, 57–60; third note, 60, 61; Allied contraband orders, 59; German assurance and unsatisfactory disavowal, *Arabian* affair, 61–63, 77, 416; Lansing's note on Allied violations, 64, 65; tone of note, home consumption, 66–68, 70; note considered, 68–71; Allied accommodations, 71; Lansing's proposed rules, unarmed merchantmen, 75; further German sinkings, 78; ultimatum to Germany, reply, 79–81; irritation over Allied actions, 84; black list, 85, 86, 102; German warning of peace on renewed submarine warfare (1916), 87; renewal of submarine warfare, 91–94, 417; new sinkings and arming merchantmen, 95; American attitude as belligerent, 101, 194, 418; German Claims Commission, 253–256, 441. *See also* World War.
Neutrality, Bryan's plan for Pan American, 20; question of munitions trade, 24, 36; belligerent loans, 25.
New York *Times*, on Lansing, 53; on Allied black list, 86; on Harding's proposed foreign policy, 428.
New York *World*, on Lansing's resignation, 173.
Nicaragua, canal treaty, 114, 115; intervention, 114, 340; war on Germany, 123. *See also* Central America; Latin America.
Nine Power Treaty, 248–250, 439, 440.
Northcliffe, Viscount, and Lansing's

neutral-rights note, 64; conference with American war mission, 193.
Norway, Spitsbergen, 288, 445; prohibition treaty, 296; American case before Hague Tribunal, 443.
Nover, Barnel, acknowledgment to, 412n.

Obregón, Álvaro, and American claims, 313; recognition, 307.
Oil, Mexican rights and controversy, 304–307; Chester concession, 449.
Open door, and Lansing-Ishii Agreement, 132, 134–137; sanction in Washington Conference, 248, 439, 440; in Turkish negotiations, 300.
Oreste, Michel, overthrow, 117.

Pacific Ocean, Four Power Treaty, 247, 248, 437–439.
Page, T. N., and war with Austria, 100.
Page, W. H., international relations scheme, 8; mediation, 23; neutral rights, 25, 27; Lansing's neutral-rights note, 64, 66, 68; House's intervention scheme, 75.
Pan America, A B C mediation in Mexico, 18; House's proposed peace pact, 19–21, 111, 112; recognition of Carranza, 112, 113; and unilateral Monroe Doctrine, 345, 347; Santiago Conference, 345–347; convention on inquiry and conciliation, 346.
Panama, war with Germany, 123; prohibition treaty, 296; Colombia boundary convention, 351; Costa Rica boundary, 351. *See also* Isthmian canal; Latin America.
Paraguay, and World War, 124. *See also* Latin America.
Paris, Hughes's visit, 332–334.
Paris Peace Conference, Wilson's attitude toward Allies, 84; American commissioners, 147, 149; Wilson's decision to attend, 147, 148; Council of Ten and Plenary Assembly, 149, 150; procedure, Americans and program, 151, 152, 424; Wilson and Lansing's draft, 153; special commissions, 153; Wilson's temporary absence, 157; Council of Four, 158; responsibility for the war, 159–161; Lansing's attitude, 161, 164, 167; Shantung, 162, 250, 425, 440; tripartite alliance, 163; Lansing's reasons for remaining, 164; signing of treaty, 165; departure of Wilson and Lansing, 166; Senate's rejection of treaty, 225, 440; treaty and American separate treaties, 226–230, 432. *See also* League of Nations; Mandates; Peace; Reparations.
Parker, A. B., presidential candidacy, 6.
Parker, E. B., German Claims Commission, 255, 441.
Payne, J. B., Mexican negotiations, 304, 307.
Peace, Bryan's conciliation treaties, 9, 31; Wilson's statement of principles (1916), 83; German warning (1916), 86, 87; Wilson's "victoriless" mediation policy, 87, 91; German proposals, 87, 88, 417; Allied rejection of them, 88; American inquiry on war aims, replies, 89–91; Wilson's proposals and submarine warfare, 91–93; Wilson and secret treaties, 105–107, 127, 134, 418, 419; Anderson's mission, 140; Morgenthau's Turkish mission, 141; necessity of victory, 142; Austrian proposal for conference, 142; Wilson's fourteen points, 143; armistices, 143, 146; Central Powers' appeal, Wilson's reply, 143–145; Allies and Wil-

son's terms, 145; American separate treaties, 226–230, 432; Hughes on method, 263, 359; Pan-American convention, 346; Hughes on joint commissions as promoting, 357–359; his promotive actions, 360. *See also* Arbitration; League of Nations; Mediation; Paris Peace Conference; World Court.
Permanent Court of International Justice. *See* World Court.
Pershing, J. J., and unified command, 104; distinct American army, 104; Mexican expedition, 113.
Peru, and World War, 124; reception at Washington, 232, 432; Brazil-Colombia boundary, 352; Tacna-Arica controversy, 352–354. *See also* Latin America.
Pesquiera, R. V., Colby's conference, 208.
Pessoa, Epitacio, visit, 213.
Philippines, and Four Power Treaty, 438.
Phillips, William, and social contact, 232; and Mexican Claims Convention, 307.
Pilgrims of Great Britain, Hughes's speech, 330.
Poincaré, Raymond, reparations, 375, 380, 383.
Poland, recognition, 110; Russian invasion, Colby's note, 200.
Polk, F. L., and war-time diplomacy, 84; on black list, 85; on belligerent America and neutral rights, 101; on Dominican Republic, 119; acknowledgment to, 412n.
Porter, S. G., Narcotics Conference, 370; accompanies Hughes, 441.
Pound, Roscoe, on Hughes, 328.
Prinkipo Conference, 206.
Prize courts Lansing on British, 64, 65. *See also* Neutral trade.
Progressive party, Colby's activity (1912), 183; and election of 1916, split, 184–190.
Prohibition, Bryan's advocacy, 43; national enforcement, 289, 445, 446; in territorial waters, foreign protests, 289, 446; and treaty-making power, 290–292; three-mile limit and rum-running, 292–294; *quid pro quo* treaties, 294–296; treaty on land transportation, 447.
Public debt, belligerent loans, 25.

Race equality, in peace conference, 163. *See also* Japanese.
Reading, Viscount, and Wilson's attendance of peace conference, 147; conference with American war mission, 193.
Reciprocity, and most favoured nation, 312.
Recognition, of Chinese Republic, 11; question of Mexican, 14, 18, 112, 113, 308; Costa Rican question, 123; Czecho-Slovakia and Poland, 145; Hughes on policy toward illegal régimes, 268. *See also* Russia.
Redfield, W. C., on Lansing's resignation, 172.
Reinsch, P. S., and China and World War, 127, 133; on Japan and Allies, 138.
Reparations, Lansing's attitude, 162; allocation and American claims 255, 386–393, 459, 462; political or economic question, 374; Hughes's suggestion of economic study, 374–376; his New Haven address, 376–379; Ruhr occupation and crisis, 379, 380; British proposal of advisory, economic conference, Hughes's reply, 380–382; French misgivings, Hughes's explanation of scope, 383; committee of experts, Dawes

Plan, 384, 385; operative procedure, 385, 461.
Robertson, Sir William, conference with American war mission, 193.
Robinson, H. M., reparations committee, 385.
Rogers Act, 395.
Root, Elihu, Russian mission, 107; World Court, 271· on Monroe Doctrine, 344; on Hughes and Soviets, 445.
Rosen, Friedrich, American peace treaty, 228.
Roumania, American mission, 102; secret treaty with Allies, 105. *See also* World War.
Ruhr occupation, 375, 379, 380.
Russell, W. W., and Dominican Republic, 119.
Russia, Bryan's conciliation treaty, 31; Wilson and revolution, mission, 107; Wilson and Soviets, 108, 109, 199, 419; Allied force in, 109, 110; Czecho-Slovak legion, 110; Lansing and Soviets, 170; Sakhalin, 200, 428; Colby on Soviets, 200–205, 217; and Communist propaganda, 204, 286; Colby's plan for restoration, 206–208; American relief, 280; Hughes and waiting on rehabilitation, 280, 281, 288, 444; Hughes and Soviets, *de facto* government and bad faith, 282–287, 445; Hughes and foreign affairs, 287.

Saint-Germain-en-Laye, Treaty of, 228.
Sakhalin, Japanese occupation, 200, 428.
Salvador, and Nicaragua canal treaty, 12, 115; and World War, 124. *See also* Central America; Latin America.
Sam, Guillaume, presidency, overthrow, 117, 338.
Santiago, Chile, Pan-American Conference, 345–347.
Santo Domingo, ultimatum and military occupation, 12, 119–121, 339; inadequacy of customs control, 118, 119; withdrawal, 340. *See also* Caribbean Sea; Latin America.
Sarajero affair, Wiesner's report, 160, 161.
Sato, Viscount, and Chinese relations, 131–133, 421.
Scopes, J. T., trial, 44.
Scott, J. B., draft of treaty, 153; commission on responsibility for the war, 160; tripartite alliance, 163.
Search, carrying neutral vessels into ports, 65. *See also* Neutral trade.
Seibold, Louis, on Colby, South American visit, 429.
Senate, and obligatory international jurisdiction, 274–276; and general arbitration treaties, 354.
Serbia, American war mission, 102. *See also* World War.
Sèvres, Treaty of, 297.
Seward, W. H., Danish West Indies, 121.
Seymour, Charles, on Wilson's attitude toward Allies, 84; acknowledgment to, 412n.
Shantung, Japan's secret treaties with Allies, 105, 107, 127, 134; in peace conference, 162, 425; settlement of question, 250.
Sharp, W. G., and peace proposals, 88; and secret treaties, 106.
Shipping, war-time transfer, 29, 407; Colby and war-time replacement, 194; policy of reciprocal duties, 313–316. *See also* Neutral trade.
Shipping Board, Colby and reorganization, 191, 192.
Siberia, Allied force in, 109.

Smuggling. *See* Prohibition.
Smuts, J. C., and League of Nations, 154, 157; conference with American war mission, 193; and Anglo-Japanese alliance, 243.
Soviets. *See* Russia.
Spanish-American War, Bryan's services, 5.
Spitsbergen, Norwegian sovereignty, 288, 445.
Spring-Rice, Sir Cecil, on Lansing's neutral-rights note, 68.
Stabler, J. H., and Dominican Republic, 120.
Stone, W. J., and break with Germany, 94.
Straus, Oscar, and mediation, 31.
Submarine warfare, Colby and replacement of shipping, 194. *See also* Neutral trade.
Supreme Court, on prohibition in territorial waters, 289; on treaties and statutes, 447; on territorial waters, 447; on Japanese and citizenship, 452.
Supreme War Council, 103, 104.
Sussex, sinking, 78.
Sutherland, George, address at London, 453.
Sweden, and Colby's Russian plan, 208; prohibition treaty, 296.

Tacna-Arica controversy and Chile and peace pact, 112; Hughes and conference, 352; arbitration, 353; frustration, 354.
Tacoma, U.S.S., Central American Conference, 266.
Taft, H. W., on Bar Association in London, 328.
Taft, W. H., on Lansing's resignation, 172; on treaties and statutes, 447.
Tampico incident, 16.
Tariff of 1922, and most favoured nation, 312.
Tarnowski, Count, not received, 99.
Tellez, M. C., claims conventions, 308.
Terauchi Ministry, and China, 127.
Territorial waters, control over liquor in, 289, 446; rum-running, 292–294; prohibition treaties, 294–296, 447; extent, 447.
Theodore, Davilmar, presidency, overthrow, 117.
Third Internationale, propaganda, 204, 286.
Three-mile limit. *See* Territorial waters.
Tinoco, Federico, question of recognition, 123.
Tirpitz, Alfred von, submarine warfare, 78, 416.
Tonnage, Hughes and policy of reciprocity, 313–316.
Treaties, Bryan's conciliation, 9, 31; Bryan-Chamorro, 12, 114; Colombian, on Panama, 12, 115; Allied secret, on territorial adjustments, 105–107, 127, 134, 418, 419; Haitian protectorate, 117, 338; American separate peace, 226–230, 432; on mandates, 241, 433, 434; Central American, 268; on prohibition enforcement, 294–296; draft Turkish, 298–303, 448, 449; Mexican claims conventions, 307. *See also* Commercial negotiations; Paris Conference; Washington Conference.
Treaty-making power, and Eighteenth Amendment, 290–292; and statutes, 447.
Trianon, Treaty of, 229.
Tuan Chi-jui, and Japan and World War, 128, 129, 133.
Tumulty, J. P., on Wilson and Lansing, 168.
Turkey, United States and mandated territory, 237, 434; American peace mission, 141; foreign

aspects of nationalist movement, capitulations, Armenia, 297, 298; Hughes and problem of relations, Lausanne negotiations, 298–300, 448, 449; Hughes and Armenia, 301; opposition to treaty, 302.
Turlington, E. W., on Treaty of Lausanne, 448.

Udine, Prince of, American mission, 100.
Underwood, O. W., Chinese affairs at Washington Conference, 440.
University of Brussels, degree for Hughes, 334.
University of Louvain, degree for Hughes, 334.
Uruguay, and World War, 124; Colby's visit, 213. *See also* Latin America.

Van Devanter, Willis, on territorial waters, 447.
Velarde, Hernan, reception, 432.
Venezuela, and World War, 124. *See also* Latin America.
Vera Cruz, occupation, 17.
Versailles, Treaty of. *See* Paris Peace Conference.
Villa, Francisco, raid, expedition against, 113.
Virgin Islands, purchase and named, 121.
Viriani, René, American mission, 100.

Waddell, C. L., 221.
Waddell, Catherine (Hughes), 221.
Warren, C. B., Mexican negotiations, 303, 307.
Washington Conference on Limitation of Armaments, conditions prompting, American position, 242, 243; call, agenda, 243–245; opening, Hughes's naval proposals, 245, 436, 437; Five Power Treaty, naval limitation, scope, 246, 250, 437, 438; Four Power Treaty, Pacific relations, 247, 248, 437–439; Chinese integrity and open door, Nine Power Treaty, 248–250, 439, 440; other Chinese matters, 250, 440; Hughes's control, 250; outside settlement of Shantung, 250; results, 252; Hughes's statement, 252, 441; Russia and, 281.
Welles, Sumner, Central American Conference, 267, 268.
West Indies. *See* Caribbean Sea.
Wheeler, Post, on Ishii's mission, 126, 130.
White, E. D., boundary arbitration, 351.
White, Henry, peace commissioner, 149; and League of Nations, 156.
Wiesner, Friedrich von, on Sarajero affair, 160, 161.
Wilbur, C. D., on naval limitation, 438.
William II of Germany, abdication, 145; proposed trial, 160, 161; and submarine warfare, 416.
Wilson, H. L., and Huerta, 15.
Wilson, Woodrow, Bryan and candidacy, 6; appointment of Bryan, 7; control of foreign policy, 10, 54; repudiation of dollar diplomacy, 10; Chinese consortium, 10; canal tolls, 13; Huerta, 14–16; Tampico and Vera Cruz, 16, 17; A B C mediation, 17; ultimatum to Carranza, 19; plan for American League, 19–21; outbreak of World War, 22; good offices, 22, 32; neutral rights and British relations, 25, 26; reply to German war zone, 35; efforts for compromise, 35, 36, 40, 408; first *Lusitania* note, 38–40, 51, 408; second note, 41, 52, 55–57; appointment of Lansing, 53, 413; Lansing and

"saving democracy" idea, 55, 97, 98; third *Lusitania* note, 60; House's reasonable peace and intervention plan, 72–75, 83, 415; Lansing's unarmed-merchantmen suggestion, 77; ultimatum to Germany, 79–81; on durable peace principles (1916), 83; reception of speech by Allies, 84; subsequent attitude toward Allies, 84; and Allied black list, 86; victorilesspeace policy, 87, 91, 92; inquiry on war aims, 89, 90; break with Germany, disbelief in war, 94; and Cabinet, 95, 96; arming merchantmen, 95; war message, 96; war with Austria, 100; Supreme War Council, 104; unified command, 104; distinct American army, 105; and secret treaties on territorial adjustments, 105–107, 418; Russian Revolution, Soviets, 107–109, 199, 206, 419; Dominican Republic, 121; Costa Rica, 123; peace through force, 142; fourteen points, 143; Central Powers' peace appeals, 144–146; Lansing's divergence, 149, 162, 164, 171, 172, 424; and Bullitt's statement on Lansing's attitude, 167, 168, 426; physical breakdown, 168, 199; and Cabinet meetings during incapacity, 170; forced resignation of Lansing, correspondence, 171, 172, 181; character, and reasons for appointment of Colby, 179–182, 197, 218; Colby and 1916 campaign, 187–190; minor offices for Colby, 190, 192, 193, 195; law partnership with Colby, 216; Yap, 237; Armenia, 301. *See also* League of Nations; Paris Peace Conference.

Wiseman, Sir William, and German peace proposals, 88.

Woman suffrage, Bryan's advocacy, 44.

Woolsey, L. H., and Lansing, 174.

World Court, Hughes's interest, 271; his plan for American adherence, 272–274, 443; plan before Senate, obligatory jurisdiction, 274–276; and League of Nation, selection of judges, 276–278, 355–357, 443, 444; and international law, 278.

World War, Bryan's plan for neutrality of American nations, 20; first attitude of Administration, 22; Wilson's good offices, 22, 31; American break with Germany, 94, 95; German proposals to Mexico, 96, 125; American declaration; "saving democracy," 97, 98; United States and Germany's allies, 99, 100; declaration against Austria, 99; Allied commissions in United States, plans for cooperation, 100–102; American mission to Europe, 102; Interallied Conference, 103, 193; Supreme War Council, 103, 104, unified Allied command, 104; distinct American army, 104; Russian Revolution and Soviets, 107–110; Czecho-Slovakia and Poland, 110; Germany and the Caribbean, 111, 115, 122; Latin America and participation, 122–125; Japan and China, 127–130, 133, 421; and Lansing-Ishii Agreement, 133–139; Japan and allies, 138, 422; Allied ascendancy, 142; Serbia and Sarajero affair, 160, 161; Anglo-American conference, shipping question, 193, 194. *See also* Neutral trade; Peace.

Yap controversy, 212, 236, 237, 241, 433.

Young, O. D., reparations committee, 385.

Zamor, Oreste, presidency, overthrow, 117, 338.
Zelaya, J. S., and United States, 114.
Zimmermann, Alfred, and peace proposals, 87; proposal to Mexico, 96, 125.
Zinoviev, Gregory, on defying Wilson, 109.

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